

NONRECOGNIZED AMERICAN INDIAN TRIBES:
AN HISTORICAL AND LEGAL PERSPECTIVE

Edited by

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Frank W. Porter III

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PREFACE

There are more than 400 Indian tribes in the United States, but the Bureau of Indian Affairs provides services for only 289 and withholds benefits from others identified as "nonrecognized" tribes. The latter include Indian people who have been denied services because they have not been identified either as individual Indians or as members of groups classified as "tribes" under United States policies and laws.

In recent years, these nonrecognized but identifiable Indian groups have begun to receive some acknowledgment of their existence in spite of a belief by most Whites that they are not tribes, according to popular definitions. Belated acknowledgement has been extended because they have maintained Indian identities. Most are located east of the Mississippi River, but a few are in the West--mainly in California.

The problems of nonrecognized tribes are exemplified by the recent experiences of Pascua Yaqui near Tucson, Arizona. In 1974, they sent a delegation to the National Indian Lutheran Board to explain that state and local agencies would not provide services because the Pascua Yaqui are not recognized by the Federal Government. Since they were not federally recognized, they were ineligible for federal assistance and did not qualify for services from the Bureau of Indian Affairs. Acting in conjunction with the University of New Mexico American Indian Law Center, the National Indian Lutheran Board helped them complete their petition to the Department of the Interior, and became instrumental in obtaining federal recognition for the Pascua Yaqui as an American Indian tribe.

Other bands and groups approached the National Indian Board for assistance with interpreting regulations for a federal recognition. In 1979, the Board raised funds for workshops across the country to interpret criteria. These were held in areas close to potential petitioners, provided information to tribal members as well as professional resource people working on petitions.

Today, approximately half of a potential 200 tribal groups are involved in efforts to achieve recognition as tribal units of the Federal Government. Every petition requires the preparation of a historical narrative documenting the continuity of a group known as a historic tribe. Estimated preparation time is two to three years, depending on the ability of researchers to locate the historical and anthropological material, and some petitions take longer than three years. Expenses include professional salaries, travel costs (to locate documents), and administrative staff to coordinate efforts. The largest cost is for the employment of professional people, i.e. attorneys, anthropologists, ethnographers, and genealogists.

After the 1979 series of National Indian Board workshops, it became apparent that few of the tribes had men who possessed the special training required to research and write petitions, and that considerable confusion existed as to whether the advantages or disadvantages of federal acknowledgment were likely to bring the Board again sought funds, broadened the educational content of the 1979 workshops, and contacted professional resource people to increase their capability and willingness to work and research with tribal groups in the preparation of petitions that would comply with criteria.

federal regulations.

These experiences led the Board to recognize that groups seeking recognition would need on-going technical assistance, that the Board's program alone could not serve all 87 groups that had recently made the decision to petition for federal recognition, and that additional help would be needed even by those groups already engaged in the preparation of petitions. In response to these needs, the Board and Dr. Frank W. Porter III, former Director of the Maryland Commission on Indian Affairs, worked toward the development of a special research and resource center. Gettysburg College in Gettysburg, Pennsylvania offered space and facilities, and the American Indian Research and Resource Institute opened on January 1, 1983. The general purpose of the Institute is to study the histories and cultures of American Indians, giving emphasis to those in the eastern United States. A specific objective is to provide technical assistance to any nonrecognized Indian group seeking federal recognition, and this Occasional Paper is a step in that direction.

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June, 1983

AN HISTORICAL PERSPECTIVE ON NONRECOGNIZED
AMERICAN INDIAN TRIBES

by

Frank W. Porter III

In 1932, Grant Foreman published Indian Removal: The Emigration of the Five Civilized Tribes of Indians. This study depicted the enforced emigration of the Choctaw, Creek, Chickasaw, Cherokee, and Seminole to land west of the Mississippi River. Later studies, strongly influenced by Foreman's work, added further documentation and insight into the removal of these and other tribal groups (for example: Wilkins 1970; Young 1975; and Green 1982). Not all of the eastern Indians suffered removal. The treatment of those tribes, bands, families and individuals who refused to leave their traditional homelands, or who returned after being removed, is a significant part of the history of the American Indian, and their treatment has only begun to attract attention and study.

For more than 350 years the American Indians in the eastern United States had seen their way of life dramatically changed while still maintaining Indian identity in an environment continuously dominated by a Euro-American culture. The imposition, and at times acceptance, of Euro-American land tenure practices necessitated changes in livelihood, settlement, mobility, and material culture. Having undergone the full range of acculturative processes with commensurate loss of traditional traits, few American Indians in the East have been accorded the protection and rights of the federal trust relationship. There are more than 400 tribes in the United States, but the Bureau of Indian Affairs provides services to only 289 (American Indian Policy Review Commission 1977: 461). Approximately 115,000 Indians are members of "nonrecognized" tribes. Essentially, these are people who have been denied services because they have not been identified either as individual Indians or as members of tribes

according to United States policies and laws (Ibid. See Anderson 1978).

The histories of American Indian policies, and of the development of a trust relationship under federal laws, have been studied exhaustively (Prucha 1962, 1976, and 1977. See also American Indian Policy Review Commission Task Force Report One). Nonrecognition of Indian tribes by the Federal Government, however, is an anomaly in American Indian policy (Swenson 1981). It is just as frustrating to attempt to find a consistent pattern or rationale for the administrative determination of federally recognized Indian tribes as it is to determine why more than 100 groups have never been recognized, but the results of nonrecognition are far more tangible. Task Force Ten (1976: 1695) described the effects:

The results of nonrecognition upon Indian communities and individuals have been devastating, and highly similar to the results of termination. The continued erosion of tribal lands, or the complete loss thereof; tribal governments and social organization; and the elimination of special Federal services, through the continued denial of such services which Indian communities in general appear to need desperately. Further, the Indians are uniformly perplexed by the current usage of "Federal recognition" and cannot understand why the Federal Government has continually ignored their existence as Indians. Characteristically, Indians have viewed their lack of recognition as Indians by the Federal Government in utter disbelief and complete dismay and feel the classification as "nonfederally recognized" is both degrading and wholly unjustifiable.

In 1976, the Department of the Interior created the Federal Acknowledgement Project and established specific criteria whereby these groups could petition for recognition. The Project was mandated to determine an Indian group's eligibility for recognition, and it went into operation in 1978. Since then, there has been a petitioni

process that requires the preparation of a historical narrative documenting the continuity of the petitioning group with a known historic tribe plus the compilation of a thorough family history for each member of the tribe. Few of these tribes have members who possess the special training required to research, write and prepare such a document. Consequently, social scientists from the academic community and attorneys-at-law have important and critical roles to play by assisting them in obtaining federal recognition. These scholars will have taken an important step if they recognize the diverse processes responsible for the presence of nonrecognized Indian communities throughout the United States, and the problems they continue to face in a society dominated by Whites (Porter 1982: 47)

There is no simple explanation as to why some tribes are not recognized. According to the American Indian Policy Review Commission (1977: 462), the distinction the Department of the Interior draws between the status of recognized and nonrecognized tribes seems to be based entirely upon precedent--upon whether at some point in a tribe's history it established a formal political relationship with the Government of the United States. Failure by the Federal Government to recognize certain tribes has usually been the product of long-forgotten historical accidents, or of the belief that many tribes became extinct. Whatever the reasons for the nonrecognized status of many Indian groups, one thing is certain: they have not vanished!

BRIEF OVERVIEW OF AMERICAN INDIAN POLICY

Administrative refusal on the part of the Federal Government to recognize some tribes is a relatively recent phenomenon, apparently a

by-product of the termination policy of the 1950s. The neglect of most tribes, however, is the result of historical circumstances. For example, American officials, accepting jurisdiction over former colonial territories, assumed responsibility for collecting, translating, and resolving the agreements that former European nations had made with individual Indian tribes. Yet, some tribes which had been familiar participants in colonial affairs were virtually unknown to the United States. Other tribes had become so weakened and depopulated, due to their dealings with colonial governments, that they were overlooked. Still other tribes avoided all contact with the colonial governments, the Continental Congress, or the Government of the United States.

Behind the Frontier

Several travelers who visited the American colonies, and fortuitously recorded their observations and experiences, conveyed the impression that Indians were a vanishing people. Journeying through Maryland in 1679 and 1680, Jasper Danckerts remarked: "There are few Indians in comparison with the extent of the country. When the English first discovered and settled in Virginia and Maryland, they did a great [wrong] to these poor people, and almost exterminated them" (James and Jameson 1913: 115). Francois Marie Rene de Chateaubriand observed that "the Piscataway of Maryland; the tribes who obeyed Powhatan in Virginia; the Paroutis in the Carolinas--all of these tribes have disappeared" (Switzer 1969: 175). In a thought-provoking monograph, D'Arcy McNickle argued recently, however, that Indians in the eastern United States did survive ethnically and culturally (McNickle 1962: 2).

The persistence and survival of Indians along the Atlantic Seaboard and the states bordering the Gulf of Mexico during and after the colonial period occurred in part because certain groups of Indians refused to migrate west after their tribes signed treaties of land cession. Because the treaties frequently provided land allotments, whole bands, parts of bands and isolated families remained behind on these tracts. Others simply would not abide by the agreements and severed themselves from their tribes. Occasionally, Indians who sold all or part of their land to Whites continued to reside within the immediate locale. Some tribes had been granted reservations by colonial authorities, yet only a few still maintained possession in the nineteenth century. Under such diverse circumstances, these groups of Indians became remnant populations in their traditional habitats. In the course of time, many were assimilated into the numerically superior White society, ultimately forgetting their native languages and losing much--if not all--of their aboriginal cultures.

Through most of the nineteenth century, little attention was paid to the possible existence of small enclaves of Indians in the eastern United States. In 1889, James Mooney, then employed by the Smithsonian Institution, distributed a questionnaire about the possible existence of Indian communities to one thousand local physicians in counties of Maryland, Virginia, Delaware, and North Carolina. He requested information about Indian local names, archaeological remains, and possible survivors of pure and mixed Indian origin. Replies to his circular indicated that a substantial number of local groups of Indian origin were present at that time in these states, and

many of the responses expressed characteristic racial prejudice held by Whites toward the communities. Mooney was informed that on the eastern shore of Maryland and Virginia "the few who remained at the beginning of the last century had become so mixed with negro blood that in the general alarm occasioned by the Nat Turner slave rising in 1831 they had been classed as full negroes and driven from their homes, so that their identity was lost." Despite such conclusions, Mooney noted that several groups still claimed descent from the Nanticoke, Piscataway, and Wicocomoco, and attributed their strong sense of being Indian--in spite of their limited numbers--to fear of losing their "identity by absorption into the black race, and against this they have struggled for a full century" (National Anthropological Archives MS. 2190, Mooney 1907: 144-145).

Although in the 1930s a small group of scholars directed their attention to those groups who claimed Indian descent, many of the Indian communities in the eastern United States continued to be perceived by Whites as mulattoes, mestizos, mixed-bloods, or tri-racial isolates. The fact that some of them did not have a specific tribal identity explains this confusion. There has never been general agreement about a generic term to identify them, but E. Eugene Griessman's "The American Isolates" conveys the idea of the apartness, whether genetic or social, which has characterized their communities (Griessman 1972). There has been consensus that many of these people are of intermingled Indian, Caucasian, and Negro ancestry. Invariably, they have been assigned a marginal social status, "sharing lot with neither white nor colored, and enjoying neither the governmental protection nor the tribal tie of the typical Indian

descendants." Furthermore, argues Edward T. Price, "each is essentially a local phenomenon, a unique demographic body defined in its own terms and only by its own neighbors" (Price 1953: 138-155).

In some cases, the precise origin of these isolated communities of Indians is unknown and unlikely ever to be determined. Most of so-called "American Isolates" originated along the Atlantic Seaboard. To some degree, each group has come under the scrutiny of professional scholars. Brewton Berry, in Almost White: A Study of Certain Racial Hybrids in the Eastern United States, has surveyed these isolated communities and confirmed a general confusion among the White and Black population as to their origins (Berry 1963). Consequently, any attempt to establish the origins of some Indian communities must contend with an unwieldy body of folk history, local bias, naïveté and scanty historical evidence. This is what confronts tribal groups seeking federal acknowledgment.

Colonial Period

Spanish civilization crushed the Indian;
English civilization scorned and neglected
him; French civilization embraced and cherished
him (Parkman 1867, Vol. 1: 131).

The development of Indian policy reflected the fundamental challenge that Europeans faced when they first encountered persons of diverse cultures and different religions of the New World.

Spanish Indian Policy

Spaniards were motivated by two major interests in colonization. Conquistadores, who were dependent on Indians as a source of labor, sought to extract wealth from the land through agriculture or mining. Jesuit missionaries viewed Indians as objects for conversion to Christianity. The land between the Rio Grande and Central America contained more than 12 million Indians. A large number of these lived in established communities, had highly developed systems of agriculture and irrigation, and were superb artisans and craftsmen. This combination of factors determined, in large measure, Spanish policy for dealing with them.

As a result of the conquest of New Spain, Spanish monarchs made grants of land (repartimientos) and assignments of Indians (encomiendas) to the conquistadores in return for services rendered. An encomendero was entitled to collect tribute, in money or labor, from Indians assigned to him. In return, he was obligated to provide for the conversion of his charges, reside in the district with them, and protect them from any outside danger (Zavala 1935 and Simpson 1950). This feudal lord-and-serf system caused tremendous havoc among Indian people. They became mere commodities to be parceled out in mines, sugar mills and farms, and were considered to be expendable resources. Forced to accept fundamental elements of Spanish civilization, Indians suffered from continuous decline in population, loss of morale, and devastating change in culture. Edward H. Spicer, in his Cycles of Conquest, states:

It was agreed that Spanish regal authority and law must be the framework of Indian life. It was also agreed that the setting for these primary elements of civilization must be

in town life. In addition, the Indians must be made to dress in the Spanish manner at least to the extent of trousers and shirts for men and skirts and upper garments for women. They must also practice monogamy and employ formal marriage ceremonies, and they ought to live in adobe or stone houses.

Through the strenuous efforts of missionaries, and the passage paternalistic legislation by the Crown, Indians of New Spain received protected status as royal wards. Clearly the Crown had ulterior motives. Perceiving that whoever was lord and master of the Indian was also lord and master of the land, Spanish leaders declared the Indians to be vassals, like the colonists themselves (Wolf 1959: 190). For many years, ordinances were drawn up to protect them by regulating the behavior of the Spaniards toward them. Yet, as many scholars have pointed out, these thousands of laws could not be enforced uniformly throughout an empire that stretched from Patagonia to California (Hanke 1969: 3). Yet Spanish success in colonization was dependant upon the management and control of the indigenous population of the New World. As Eric Wolf has indicated: "The conquerors wanted Indian labor, the crown Indian subjects, the friars Indian souls" (1959: 195). Spanish presence in the New World caused a biological catastrophe. By 1650, six-sevenths of the Indian population of Middle America had been wiped out (Ibid. See Crosby 1972).

Dutch Indian Policy

Although the Dutch believed that European culture was both materially and non-materially superior to that of the American Indians, they did recognize the Indians' prior rights to the soil. Dutch leaders purchased land for settlement and agricultural purposes.

Nevertheless, they considered Indians to be backward, ignorant, and superstitious, and argued that Indians had far more to learn from the Dutch than to teach them.

Consequently, the Dutch tended to maintain both physical and cultural gaps between themselves and their Indian neighbors. Allen W. Trelease (1969: 48) has noted:

The Indians were generally unwilling to adopt most of the white man's ways until their own civilization had become eroded through sustained contact. The Dutch, for their part, did less than most powers to bridge the gap. Even more than the British, they appear to have followed a policy of live and let live so far as acculturation, assimilation, and religious conversion were concerned.

There was very little missionary work by the Dutch among the Indians, due to austere Calvinism in the Dutch Reformed Church. Miscegenation between the Dutch and the Indians was rare, and inter-marriage was virtually unknown. Predictably, the Dutch did not encourage conversion or cultural assimilation.

Accordingly, Dutchmen and Indians treated each other as separate peoples. The Dutch worked in the New World strictly for trade and empire, and their policy towards Indians reflected these goals. They viewed the Indians as possessors of land to be acquired, as sources of trade and wealth, and as military and political powers to be negotiated with--either as enemies or allies (Ibid: 51). And precedents set by the Dutch were followed closely by Englishmen when New Netherland came under British control during the 1660s.

French Indian Policy

The French have been acclaimed for genius in securing cooperative and retaining good will among Indians. Unlike Spaniards who sought to make the Indians slaves and dependent wards, or Englishmen who disliked and distrusted Indian people, Frenchmen treated Indians as younger brothers (Tyler 1973: 25). The development of the fur trade shaped their attitudes. The Company of New France, which was given an area for exploitation stretching from Florida to the Arctic Circle as far inland as the sources of rivers flowing into the Great Lakes, monopolized the fur trade. In return, the Company promised to settle four thousand colonists in New France within fifteen years, to ensure the conversion of the Indians, and to preserve Catholicism among orthodox French colonists (Wade 1969: 65). Significantly, the Company of New France and other French trading groups failed miserably as colonization agents, and did little to promote missionary activity.

Under successive administrators and merchants, who cared more about fur trade than colonization, and more about personal gain than the welfare of the colony, the pattern of French relations with the Indians was set. Missionaries sought to convert the Indians with limited success. Colonial administrators embraced them as useful allies in a struggle with Englishmen for control of North America. Fur traders, typified by the coureurs de bois, melded with Indians in their quest for pelts. Leaving faint imprints on the tribal groups around them, they withdrew at the end of the French and Indian War, in 1763, and the English inherited New France.

English Indian Policy

Englishmen came to North America to take permanent possession of land. Indians, while they were useful as advisers to early English settlers struggling to adapt to a strange environment, were never viewed as a necessary component of colonial society. The English legitimized the acquisition of Indian land through the "doctrine of discovery." In essence, this established the right of a discoverer of "unoccupied" land to acquire it in the face of competing claims of discovery by other European nations (F. Cohen 1942: 291-294). This doctrine was imposed upon all Indians occupying "unoccupied" land.

English colonial leaders did acknowledge "aboriginal title" as an exclusive right of occupancy. Yet according to this view of land rights, an individual European could secure land through discovery, and, in actuality the doctrine of discovery proved to be a rationale for taking land from the Indians (Ibid).

Among the English there appeared to be a general attitude of hostility toward Indians. All too often Englishmen viewed them as obstacles to settlement. It is significant to note that while the Crown was nominally a party to agreements between Europeans and Indians, because governors of individual colonies were representatives of the Crown, the governors were authorized to work out relationships with Indians. Colonial officials differed widely in the policies they adopted. During the eighteenth century, when England was involved with rapidly developing independent commonwealths in North America, colonials were given considerable control over Indian affairs. Wilbur R. Jacobs (1969: 94) has observed: "Muddle and strife were two of the main characteristics of British-Indian policy throughout most of the colonial period."

Regarding possessory rights, Charles Royce (1899: 549-551) has argued that the Indians were overlooked and ignored in most of the original grants of territory to private companies and colonists. While the Crown granted away title to land in the New World, it left to the discretion of the grantees how to deal with original inhabitants. In effect, contact with the Indians would create the need to develop policy which recognized the Indians' right of occupancy, and in turn the responsibility of the grantees to extinguish this right by purchase or other proper methods. Three important spheres of activity in the English colonies soon led to the formation of policies: development of missionary activities, establishment of trade relations with Indians, and procurement of land from Indians for the colonists.

Maryland offers one example of how this policy evolved. Indians were not completely excluded in a charter issued by Charles I, in 1632, which granted Maryland to Lord Baltimore. Four phrases in the charter allude to Indians, but failed either to stipulate the rights of the Indians, or to indicate any concern for their welfare or proper treatment. First, there was the simple recognition that the granted territory was occupied by Indians. Second, mention was made of a payment which required "two Indian arrows of those parts to be delivered at the said castle of Windsor." Third, "savages" were referred to as possible enemies the colonists might have to encounter. Finally, the Indians were the subjects of the twelfth section, which authorized Lord Baltimore to collect troops and wage war on "barbarians" and other enemies who might threaten the settlements, and "to pursue them beyond the limits of their province," and "if God shall grant it, to vanquish and captivate them; and the captives to put to death, or

according to their discretion, to save" (Royce 1899: 549-551, Stottnero-Montero 1963).

In the Maryland charter, King Charles transferred to Lord Baltimore absolute authority, without constraint in regard to Indians, to deal with them in his own way as to their possession of land. In soliciting potential settlers to accompany him to Maryland, Lord Baltimore declared that his "chief intention" was "to plant Christianity there." In an early promotional tract, he declared:

The first and most important design . . . is, not to think so much of Planting fruits and trees in a land so fruitful, as of sowing the seeds of Religion and piety. Surely a design worthy of Christians, worthy of angels, worth of Englishmen (Hall 1910: 5).

Although Lord Baltimore had publicly announced his intention to Christianize the Indians, his primary objectives centered on securing land and establishing trade relations. To further sway the interest of "noble Gentlemen" in colonizing Maryland, he offered two thousand acres of good land to any person who would contribute 100L for the transportation of five able men and furnish them with arms, tools, clothes, utensils, and food for one year. In order to prevent hostilities with Indians, Lord Baltimore waived any question of right or superior power to the land, and agreed to purchase outright the site for a town and a thirty mile extent of land. Unfortunately for the Indians, a substantial inconsistency existed between his official interpretation of the legal status of Indian land titles and the voluntary purchase of them by colonists. In a situation comparable to that of the other colonies, ambitious settlers--who apparently were unable to obtain grants of land from the proprietor--purchased it directly from Indians, then produced their Indian deed as proof of

title to the land (Porter 1979a: 177). Under this system, large-scale encroachment vastly exceeded the ability of the colonial authorities to control it.

On several occasions the Crown tried to implement a coordinated Indian policy but was frustrated by colonial leaders. In 1754, British authorities advised delegates from New England, Maryland, New York, and Pennsylvania to meet at Albany and make a treaty with the Iroquois. Instead, delegates drafted an amended version of Benjamin Franklin's earlier "plan of union," which called for the federation of all colonies (excluding Georgia and Nova Scotia) under a president general appointed and paid by the Crown. There was to be a grand council elected by colonial assemblies. The president general and the grand council were to have jurisdiction over Indian affairs. The plan was rejected by the colonies and the Crown.

The French and Indian War illustrated the failure of English and Indian policy, and the insecurity of frontier settlements against Indian raids. The Proclamation of 1763 established the view that tribes had a right to peaceful protection for their lands, said that definite borders should be created, and called for the removal of non-Indians (McNickle 1957: 6). In 1768, the Crown created a line running from the eastern end of Lake Ontario to the Gulf of Mexico, beyond which there could be no European settlements. Thousands of White settlers poured over this boundary line without permission (DeVorse 1966). In every instance, the Crown failed to provide the means of enforcing its agreements with Indian people.

Conclusion

The history of Indian policy during the colonial period is a "record of the interaction between the Crown or national governments, and the frontiersmen or local governments, in their relations with individual Indian tribes" (Tyler 1973: 28). The Crown dealt with Indians in such a way as to maintain their national credibility. A frontiersman treated Indians in a way that was advantageous to him, often ignoring laws designed to protect Indians and their land. For the Indians, it was a persistent struggle to preserve either land or way of life. In theory, individual European nations sought to exercise humane policy towards them. In practice, they failed almost completely.

One of the critical developments during the colonial period was an attempt to establish a firm boundary between the various Indian tribes and the American colonies. The Proclamation Act of 1763, which created the Line of 1763, was only provisional, occasioned by continuing Indian hostilities. In reality, it was a means of regulating the acquisition of Indian land without hostility. The Act was also the first delineation of "Indian Country." It established precedent that Indian tribes should exist only west of White settlement, and that Indian title to land within the colonies had been extinguished. From this grew the assumption among Whites that Indians along the Atlantic Seaboard had disappeared, and this belief carried over into the national period.

Early National Period

With the creation of national government after the American Revolution, the formulation and control of Indian policy became the

responsibility of the Congress. An immediate problem facing the United States was the establishment of peace with tribes who had been allies of Great Britain during the war, but there were other pressing issues too. What was the nature of the authority of the states and the Federal Government in administering Indian affairs? What means were available to extinguish Indian title to the land, without force of arms, to accommodate expanding settlement? How could Congress keep land hungry pioneers from encroaching on Indian land? How could trade with the Indians be regulated? And how could Christian Whites meet the responsibility of bringing civilization to the Indians (Prucha 1962: 2)? The basic Indian policy of the United States took shape as the Federal Government sought solutions to these issues.

Given the fact that during the American Revolution Indians were used as pawns between the rebelling colonies and England, it is surprising that the Constitution was ratified with very little regard for Indian affairs. The document gave the Federal Government power to regulate commerce "with the Indian tribes," and, this was the limited and frail basis on which Congress built its legislation. In 1790, congressmen passed a series of laws "to regulate trade and intercourse with the Indian tribes," which became the essential features of federal Indian policy. Later, Chief Justice John Marshall, in Worcester v. Georgia, noted that the Constitution

confers on Congress the powers of war and peace; of making treaties, and of regulating commerce with foreign nations, and among the several states, and with the Indian tribes. These powers comprehend all that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions; the shackles imposed on his power, in the confederation, are discarded" (quoted in Prucha 1962: 43).

Accordingly, the trade and intercourse acts provided the framework for trade with the Indians. In addition, they dealt with hostility towards Indians among settlers scattered in the backcountry. Mainly these laws were designed to control Whites on the frontier, who continued to violate treaties with impunity.

Between 1789 and 1820, the United States was not strong enough to deal forcefully with Indians. The Federal Government pursued a policy dictated by military exigencies through treaties. Through treaties, the United States not only acquired lands, but also assumed legal responsibilities for Indians. Kirke Kickingbird and Karen Ducheneaux (1973: 7) poignantly state that the Indian tribes "in effect parlayed their claims to land into claims for services from the new American government."

There was another important development in the early national period: the purchase of Louisiana in 1803 and the acquisition of the two Floridas between 1812 and 1819 doubled the size of the United States. With the addition of these new territories, the task of regulating trade with Indians became even more difficult. Thomas Jefferson, who was aware of the deleterious effects of contact between Whites and Indians, proposed an amendment to the Constitution in 1803 to exchange Indian land east of the Mississippi River for land west of the River (Sheehan 1973). Although he was unsuccessful, the idea would soon become a modus vivendi in government circles: move Indians to a permanent reservation west of the Mississippi River. The consolidation of military and political strength by the Federal Government, and the emergence of the philosophy of manifest destiny, made the removal of the Indians not only feasible but also the primary objective of federal Indian policy.

The Removal Era

Francis Paul Prucha (1962: 224-225, 1969: 527-539) has argued that many proponents of Indian removal believed "that only if the Indians were removed beyond contact with whites could the slow process of education, civilization, and Christianization take place." Selfish economic motives--especially the insatiable desire of eastern Whites for Indian lands, and efforts by eastern States (notably Georgia) to be rid of independent tribes within their borders--clearly stimulated efforts for removal, too. Soon most of the Indian population of the southeastern United States was removed to territories west of the Mississippi River.

In 1830, Congress enacted the Removal Bill, which empowered the President to transfer any eastern tribe to trans-Mississippi land. Although the bill did not mention the use of coercion, it was understood that military force would be necessary. The first treaty made and ratified after the Indian Removal bill was that of Dancing Rabbit Creek, signed on September 27, 1830. Choctaw Indians ceded to the United States all of their land east of the Mississippi River, and agreed to remove within three years to a place beyond the Mississippi which the Federal Government promised to convey to them in fee simple (Foreman 1832: 28, DeRosier 1972: 116-128). Arthur DeRosier, in his study of The Removal of the Choctaw Indians 1972: 126), states: "It symbolized the evolution of the policy toward Indians from Thomas Jefferson's desire to move all eastern Indians across the Mississippi River, through John C. Calhoun's proposal for educating the Indians to accept the need for removal, to Andrew Jackson's policy of forcing their removal." For the Choctaws, the treaty symbolized the depressed

spirit prevalent among many of the eastern tribes. Chief David Folson remarked: "We are exceedingly tired. We have just heard of the ratification of the Choctaw Treaty. Our doom is sealed. There is no other course for us but to turn our focus to our new homes toward the setting sun" (quoted in DeRosier 1972: 128).

Cherokee Indians in Georgia were not prepared to relinquish their land. Under a series of treaties, beginning in 1791, Cherokees inhabiting the state of Georgia were recognized as a nation with their own laws. Georgia, under a state law of December 19, 1829, declared the laws of the Cherokee Nation null and void after June 1, 1830. Cherokees appealed to the Supreme Court of the United States, but John Marshall dismissed their appeal on the grounds that the Cherokee Nation was not a foreign state within the meaning of the Constitution and therefore could not bring suit in his Court (Cherokee Nation v. Georgia, 5 Peters 1). Georgia quickly passed a law that ordered White residents among the Cherokee to obtain license from the governor, and to take the oath of allegiance to the state. Samuel A. Worcester and Elizur Butler, two missionaries who had been working with the Cherokees, refused to obey the law and were convicted and sentenced to four years at hard labor (Bass 1936). Again, Cherokees appealed to the Supreme Court. This time, Marshall ruled that the Federal Government had exclusive jurisdiction in the territory of the Cherokee Nation (Worcester v. Georgia, 6 Peters 515), and that Georgia's law was unconstitutional.

Chief Justice Marshall had reasserted the existence of Indian tribes as independent nations. President Andrew Jackson refused to enforce Marshall's decision. Despite various attempts by the Federal

Government to induce Cherokees to move willingly, they refused. In 1835, Jackson addressed them from this position:

I have no motive, my friends, to deceive you. I am sincerely desirous to promote your welfare. Listen to me therefore while I tell you you cannot remain where you are. Circumstances that cannot be controlled and which are beyond the reach of human laws render it impossible that you can flourish in the midst of a civilized community. You have but one remedy within your reach. And that is to remove to the west and join your countrymen who are already established there. And the sooner you do this the sooner will commence your career of improvement and prosperity (quoted in Prucha 1962: 247).

Many Cherokees could not withstand the pressure exerted upon them and moved to the west. Appalachian Cherokees were allowed to avoid removal, however, because of a special arrangement made on their behalf by their White legal counsel, William Thomas. In order to remain in their homeland, they had to separate themselves from the Cherokee Nation, and to accept North Carolina's sovereignty over their villages. Many of them believed such a decision would serve to preserve their traditional way of life. Thus many elected to remain in North Carolina, with federal approval. Other Cherokees managed to evade removal by hiding in the mountains. Many families who remained were provided with small tracts of lands, while the remainder were removed to the West. The tragic story of "The Trail of Tears" need not be repeated. During the remaining years of the 1830s, most of the tribes in the eastern United States were removed. Grant Foreman has stated:

All but hopeless the Indians were as they approached their new home, forbidding and strange. And yet there was a wistful hope of a partial recompense--that in this remote country they would find surcease from the cruelty, sordidness, and rapacity of the frontier white man. Hope that in the country he did not covet and could not have, they would be allowed to live in peace to restore their broken health and homes, institutions and governments.

But what of those who chose to remain in their ancestral land, were soon forgotten, and became nonrecognized Indians?

INDIAN SURVIVALS EAST OF THE MISSISSIPPI RIVER

Indian removal was not complete. Whole groups, who for various reasons remained behind, were scattered throughout the eastern United States. Communities developed where environmental conditions--such as swamps and barren lands--favored their survival. Calvin Beale (1957: 188) asserts that it is difficult to locate an Indian community in the East that is not associated with a swamp, a hollow, an inaccessible ridge, or the back country of a sandy flatwoods. Secrecy meant survival during those years. After long periods of exposure to harsh inroads by Euro-American culture, and the forced removal of many tribes, these remnants inhabited sites that afforded them minimal contact with the outside world. Doubtless their settlements were perceived by Whites as marginal lands unfit for large-scale agriculture, lacking satisfactory transportation links with tidewater ports, yet these offered the resources necessary to meet basic needs, and the isolated settlements served to maintain enforced and self-imposed social distance between Indians and their neighbors--Blacks as well as Whites.

Separate and Marginal Racial Status

Almost without exception, these Indian communities in the eastern United States have been assigned separate and marginal racial status, usually based on their distinct physiognomy. Harry L. Shapiro (1942: 19-27), in his analysis of the mixed-blood Indian, has asserted that

the process of miscegenation has not been seriously investigated or considered as a method of absorbing the Indians into the general population. Conversely, few scholars have considered the possibility that miscegenation, whether proven or not, ever served as a process whereby the Indians were able to maintain their identity. All too often, investigators have concluded that where opportunity for miscegenation has been greatest, tribes have become extinct. In part this can be explained by the relentless search for "full-blood" Indians; those Indians identified as mixed-bloods frequently have been assigned the classification of White or Black. Undeniably, the difficulties lie in defining the term "Indian," and in identifying Indians. William C. Sturtevant and Samuel Stanley (1968: 15-19), while pointing out that certain communities fit the accepted criteria of Indianness, state that others suffer discrimination and are not accepted as being Indian by their neighbors because they fail to exhibit identifiable Indian biological characteristics. Phenotypic variation of members of these Indian communities is present, with extremes of skin color from light to dark, and of hair texture from curly to straight. Clearly the racial status of the members of these communities varies considerably, as they are perceived in the minds of the Indians themselves, and as they are viewed by their White and Black neighbors.

Racially and culturally, those Indians who remained in the eastern United States have been treated as a unique people. Rejected and scorned by Whites, and refusing to associate with Blacks, the Indians consciously remained apart to be caught between two cultures. A precise assessment of the forces operating to preserve their separate

status and identity is essential to an understanding of the formation and persistence of their distinct Indian communities. Each group of Indian survivals in the eastern United States is unique with regard to the historical circumstances surrounding its origin and community development. The specific means of the eventual integration of Indian survivals into the prevailing system of the dominant White society, however, appear to have certain common denominators. Noel P. Gist and Anthony G. Dworkin (1972: 1-23), in their analysis of racially-mixed minorities, argue that the development of community consciousness appears to depend on the relative size of mixed-race populations and the nature of their relationships with other groups. Close examination of the process of community development reveals that other factors were also responsible for holding these Indian groups together during the nineteenth century, as they were gradually adapting to their place in a plural society. Most important were the maintenance of family unity, transition from an aboriginal to a Euro-American concept of land tenure, effect of racial discrimination, and adoption of specific American core institutions.

Maintenance of Family Unity

At the time of initial contact, tribes residing in the eastern United States had devised successful systems of land tenure that were adapted to particular combinations of ecological and social conditions. As the culture of the Indians and the ecology of their habitat were dramatically changed by contact with Europeans, their traditional form of land tenure gradually became non-functional (Linton 1942: 42-54, Sutton 1975). With the loss of their land

through one means or another, these dispossessed Indian groups were faced with several choices: amalgamation, assimilation, sexual union (either in conventional marriages or in unconventional unions) with Europeans and Africans, and migration--to name a few. Another option which a large number pursued, was to remain in their traditional habitat. These were small groups, in many cases family units, who would have been large enough to be relatively self-contained, yet small enough not to deplete the game within an ever dwindling hunting range.

Critical to the survival of many of these Indian groups who chose to remain in or near their traditional habitat was the continuance of the family hunting unit. Accustomed to dispersing in remote areas, and to maintaining lengthy periods of isolation, the family hunting unit would have allowed some Indian families to subsist successfully in their traditional habitat even though much of their land had been preempted by Europeans. Similarly, the move of the remnant Indian groups to marginal environments would not have proven to be a severe hardship, and would have reduced their contact and conflict with White settlers.

These Indian families gradually assumed the outward appearance of Euro-Americans through the acquisition of material culture traits. Frequently, Indians became destitute and impoverished, and were reduced to selling pottery, baskets, and furs to Whites. Lewis Evans, the Pennsylvania surveyor and cartographer, observed that the "Remnants of some Nations . . . wander here & There for the Sake of making ordinary wicker Baskets & Basons" (Gipson 1939: 93). George H. Loskiel (1794: 130), a Moravian missionary, lamented that these

detached Indian families subsisted by making "baskets, brooms, wooden spoons, dishes &c. and sell them to the white people for victuals and clothes."

At this juncture, isolated Indian families became indistinguishable from lower stratum families of eighteenth century rural White society. Accustomed to fishing, trapping, and hunting for their White neighbors as well as manufacturing various domestic utensils for sale, Indians also had adopted many of the outward accoutrements of Whites. Andrew Burraby (1775: 40-41), an astute observer of colonial society, admitted mistaking these isolated Indian groups "for the lower sort of [White] people." Many other observers were similarly misled, and identified comparable remnant Indian groups as mixed-blood populations. The uncritical acceptance of these observations by many scholars as well as state and federal officials has confused our understanding of how Indians in the eastern United States survived and maintained their sense of identity.

Transition from Aboriginal to Euro-American Concept of Land Tenure

Frontier expansion engulfed these isolated Indian enclaves, and they often lost contact with other tribes. It is a paradox that the Indians were often perceived as squatters on the land, and in the nineteenth century they faced other changes. Men, when so inclined, sought wage work on White-owned farms, lumber mills, or other light industries, even though hunting and fishing remained important activities. Women marketed produce from small gardens, and sold or bartered handcrafted items to local merchants and peddlers. From these varied

activities, Indian survivals became fully acquainted not only with rural White economy, but also with the legal institutions and social customs of Whites. Their repeated appeals to the county courts about land encroachment, destruction of private property, physical abuse, and murder strongly support this point.

One of the first steps on the part of the Indian survivals in their move towards participating in the Euro-American form of land tenure was to become tenants. It is extremely difficult to ascertain the precise motives behind their decision to do so. Possibly these Indians had worked for White farmers as sharecroppers, a pattern quite common in the rural South, until they gained access to tenancy. As tenants, they gradually accumulated enough capital and material wealth to purchase their own property. In time, this property afforded a land-base upon which communities could develop.

In order to reconstruct the evolving system of land tenure in which the Indians participated, the researcher is dependent on data contained in early land records, wills, inventories of estates, and real and personal tax lists. Several factors account for the apparent paucity of documentary evidence concerning the land tenure of Indian survivals. During the nineteenth century, no precise criteria existed for determining the racial status of Indians (Beale 1958: 537-540). In most cases, the records fail to indicate a designation for Indians. Instead, local tax assessors, census takers, and other public officials classified them either as mulattoes or as "colored" people. In addition, many land transactions were oral agreements that were never recorded; and, presumably, most of the Indians at that time were illiterate, and created no private papers. Nevertheless, the growth

and development of Indian communities in the eastern United States can be thoroughly documented (Porter 1979b: 325-345, Sterns 1952, Williams 1979, and Griessman 1972).

Process of Community Development

Traditional habitats in which these small, isolated bands of Indians continued to reside during the eighteenth century became the locus of new communities that grew and developed throughout the nineteenth century. Significantly, events surrounding their earlier relationship with Whites in the seventeenth and eighteenth centuries influenced, and in some cases determined, whether the new communities would be able to withstand pressures exerted upon them by a hostile and racially biased White society.

Antecedents for the idea of placing Indians in communities patterned after the Euro-American settlements are to be found in the colonial period. Colonial authorities repeatedly relocated entire tribes to act as buffers between tidewater settlements and hostile tribes who resided in the interior. In 1713, Governor Alexander Spotswood of Virginia recommended a plan for securing the frontier with settlements of tributary Indians. Scattered tribes and bands would be consolidated in units at strategic points. In addition to being in a better position to resist attacks, the Indians would be more accessible to missionaries and teachers. Spotswood attempted to dispel apprehension on the part of the Indians by explaining that they would have "a large tract of land to hunt in, a body of English to live among them and instruct their children in literature and the principles of Christianity, to bring them to a more civilized and plentiful manner of living, and to establish a constant intercourse of

trade between them and the inhabitants of this colony" (McIlwaine 1928: 363-364). Indians acknowledged their dependency on the King of England, and were to hold their land by confirmed patents under the seal of the colony (Robinson 1959: 58). In Maryland, the Piscataway Indians relinquished land to Governor Calvert and his settlers, and agreed to move their settlements northwest along the Potomac River. In this way, they would serve as a buffer between the Susquehannock Indians and the growing settlement of St. Mary's City. In return, they were to receive protection provided by Governor Calvert (Fergus 1960, Merrell 1979, and Porter 1979a). Unfortunately, the practice of using tributary Indians for protection did not prove to be successful. The eventual result was detrimental, for traditional settlement systems were altered, subsistence activities were severely disrupted and economic and political relationships with neighboring tribes were rearranged (Jennings 1982).

Using Indians as tributaries caused a major departure from the aboriginal system of land tenure. By the middle of the seventeenth century, and continuing into the eighteenth century, many of the tribes had been placed on permanent reservations. As administrative units, these reservations became a form of property that incorporated post-contact aspects of aboriginal land tenure and changes generated by colonial administrative practice and law. Significantly, permanent residence on reservations proved in many cases to be unsatisfactory for those tribes whose subsistence strategy reflected an economic adjustment to differing ecological zones. The success of their subsistence efforts depended entirely upon freedom of mobility and access to micro-environments within their habitat at critical seasons

of the year. Two mutually related problems developed from permanent residence on reservations. Reservations had been created with the explicit understanding that the Indians would reside within specific boundaries. After relatively brief periods of time, food resources (both flora and fauna) became sorely depleted. Forced to seek game outside the reservation, the Indians temporarily abandoned their dwellings. White settlers, interpreting this act as a violation of the reservation agreements, took possession of the land (Porter 1979b).

There were also attempts by missionaries to convert Indians and bring them together in small settlements where they could receive a formal education and learn new skills. Two notable examples of missionary activities were the work of the Reverend David Brainerd among the remnant groups of Indians in New Jersey, and that of the Reverend John Eliot among the "Praying Indians" in the town of Natick, Massachusetts. When Brainerd visited Indians living at Crossweeksung in New Jersey, he found only a small number, "and perceived the Indians in these Parts were very much scattered, there being not more than two or three Families in a Place, and these small Settlements six, ten, fifteen, twenty an thirty Miles and some more, from the Place I was then at." Brainerd's work resulted in their gathering "together from all Quarters to this place, and have built them little Cottages, so that more than Twenty Families live within a Quarter of a Mile of me." Within a short time, Brainerd exclaimed: "My people [went] out this Day upon the Design of clearing some of their Lands above fifteen Miles distant for this Settlement, in Order to Their Settling there in a compact Form [my italics], where they might be

under Advantages of attending the public Worship of God, of having their Children Schooled, and at the same time a conveniency of Planting" (Brainerd 1746: 1-2, 102-103, 135, 153). The Brothertown Indians, as residents of this community were called, remained "civilized" only as long as the Reverend David Brainerd and his brother were present.

In the middle of the seventeenth century, a number of Massachusetts Indians made the decision to adopt specific aspects of English culture. This was prompted partly by the devastating impact of European disease upon them. Tremendous breakdown within Massachusetts society caused many Indians to lose faith in their traditional beliefs, institutions, and practices. Some of the leaders assigned their affliction to the wrath of the English God--a belief which was fostered and intensified by the missionary John Eliot. Fourteen Praying Towns of Indians, established after 1650, attempted some degree of assimilation. The Indians of Nonanetum, the first Praying Indian community, sought to establish a town organized along English lines, and selected Natick as the site. Within a decade, the English town of Dedham filed suit against the Massachusetts, claiming that the Indians had taken land illegally. Representing the Indians, John Eliot asserted that their claim to Natick was just, and that it must be respected. Eliot presented the court with a detailed and carefully prepared brief, which defended the position of the Praying Indians. After several appeals, during which the Massachusetts Court of Assistants was impressed with Eliot's arguments, came a judgement in favor of the Natick. The Praying Towns were secure and successful until the outbreak of King Philip's War, in 1675, when most of the Indians were

interred on Deer Island in Boston Harbor. Few would ever return to Natick (Morrison 1983, Mochow 1968: 182-219).

Despite all of these efforts--tributary Indians, reservations, mission settlements--to bring the Indians together into compact settlements and teach them new skills, by the close of the eighteenth century there was general consensus that the aboriginal population of the eastern United States had become extinct. Forgotten or neglected by Whites, they gradually reconstituted a form of social organization and land tenure, retained a sense of their Indian identity, and maintained a spatially defined presence on the landscape. Three types of communities containing Indian survivals appeared in the eastern United States during the eighteenth and nineteenth centuries: reservation communities, missionary communities, and folk communities.

Reservation communities survived only as long as the members retained possession of land. Maintaining a land-base was not an easy task. Of the many reservations created in the eastern United States, there exist today only those in Connecticut, Florida, Maine, Michigan, Mississippi, New York and North Carolina.

The continued success of the Brotherton community was dependent upon the energy and devotion that David and John Brainerd were willing to give. After their deaths, no one appeared to take their place, and the community's raison d'être was gone. Although it was assumed that after the departure of the Brothertons there were no Indians remaining in New Jersey, this was not the case. Inevitably, there were individuals and families who were unwilling to leave their homes. A consciousness of Indian identity was kept alive, yet no spatially defined Indian community existed in New Jersey during the nineteenth century.

Instead, there were widely dispersed families who embraced their varied Indian ancestry. Recently, these have organized themselves as the Nanticoke-Lenni Lenape, Inc. and the Ramapough Mountain Indians, Inc. (Collins 1972, Cohen 1974, Larrabee 1976).

The Natick Indians, who were once parties to a successful experiment in assimilation, were "practically extinct" by 1848. They had been under a guardian since 1810, who supervised the sale of the last of their land in 1828. The Stockbridge Indians, who were greatly influenced by the missionary work of John Sergeant, had also attempted an experiment in Indian-White town living. By 1789, the Whites had forced these Indians out of the town of Stockbridge, Massachusetts, and the group moved to Wisconsin early in the nineteenth century, creating a new and viable community (Mochow 1968: 182).

Folk communities developed as these Indian survivals began to participate in the Euro-American form of land tenure. In many respects a folk community is quite similar to a folk society. Following the lead of Robert Redfield (1947, 1955), I define it as a group that is (1) small and both socially and spatially isolated from other groups; (2) composed of people much alike in physical appearance (at least as perceived in the minds of an outside group); (3) similar in customary modes of behavior; (4) possessing a strong sense of belonging together; (5) with tightly knit social structures and clearly distinguished family relationships; and (6) economically self-sufficient with little class distinction (Porter 1982). A folk community is, in effect, "a little world off by itself."

Effect of Racial Discrimination

A large number of the nonrecognized tribes are folk communities (I will use the term folk and Indian community interchangeably). Given their unique historical circumstances, no two will have had identical experiences in the process of their formation during the nineteenth century. Having secured a property base, and staying together through bonds of kinship, these Indians were confronted with problems related to maintaining individual and community identity. Simultaneous with their acquisition of land, they were subjected to the racial prejudice, hostility and segregation normally accorded to Negroes. This prejudicial attitude was based on skin color and physiognomy. After 1830, especially with heightened racial fears caused by the Nat Turner slave rebellion in 1831, the White population came to regard Indians in the same manner as they viewed Negroes in the deep South. During the 1800s, most Americans recognized only two groups of people: Whites and non-Whites. The non-White category included Blacks, mulattoes, "colored people," and Indians. This perception cemented the racial status and classification of the Indians well into the twentieth century. Through decades of both self-imposed and externally enforced segregation, Indians forgot much of their history and culture. When they finally emerged from their remote habitats and began to establish their present folk communities, most of them retained only knowledge that they were Indian, and social cohesion forged by shared hardship. Neither White nor Black, in the eyes of their neighbors they were regarded as "those people," or by some more disparaging epithet (Dunlap and Weslager 1947: 81-87). Significantly, this external pressure served to strengthen social

bonds within their folk communities. Racial prejudice also served to intensify self-imposed spatial isolation, and cultural separation of the Indians in their relationship with White and Black populations. In turn, the isolation of the Indians permitted culture change to proceed at a slow pace, allowing the Indians to integrate selected material and non-material Euro-American traits into their own emerging culture.

Charles Hudson (1976: 478-501), while considering the presence of Indians in the southeastern United States, distinguishes three categories based upon degrees of Indianness demonstrated by peoples in various communities: (1) those who have retained parts of an aboriginal culture; (2) those who have lost their aboriginal culture but retain strong genetic and social identities as Indians; and (3) racially mixed peoples who have only tenuous cultural and genetic Indian backgrounds but are establishing social identity as Indians. These categories merely reflect the degrees of acculturation experienced by the Indian communities. Despite varying degrees of culture change, members of the communities have consistently identified themselves as Indians. Nevertheless, most of the Indian communities have been, and continue to be, officially nonrecognized by the Federal Government.

Adoption of Specific American Core Institutions

While these Indian communities managed to preserve their identities despite years of subordination and hostility, they also recognized the value of certain aspects of White culture, and both borrowed and integrated specific core American institutions--most notably formal education and organized religion--into their own cultural frameworks.

Controversy over the racial status of those individuals claiming Indian ancestry, however, created the need in many Indian communities to construct separate churches and schools to accommodate the White, Black, and Indian population (Porter 1978, Rountree 1972, Sterns 1952, Berry 1963).

INDIAN COMMUNITIES AS TRI-RACIAL ISOLATES

Scholars have long been aware of the presence of Indian communities in the eastern United States, but until recently their research of these groups has been biased because of their interpretation of the communities as tri-racial isolates, not necessarily as descendants of Indians. In the past, the designation of these as tri-racial groups was often a conclusion drawn by an investigator who reflected the public opinion of an area, not a conclusion drawn from information obtained in the Indian community under consideration. Investigations from this erroneous perspective have distorted our understanding of essential processes involved in the persistence of the Indian communities to the present. Information obtained from such studies directs our attention to either surviving aboriginal culture traits (for example: Harrington 1908, Speck 1915), or to the presumed social qualities and ramifications associated with these groups as tri-racial isolates (for example: Pollitzer 1972: 719-739, Elston 1971: 9-17, Witkop, et al. 1966: 382-403). The crucial point to determine in this issue is the impact such perceptions have had upon the development of social institutions, and on the emergence of distinct communities. Whether miscegenation can be biologically demonstrated or not, Indians and outsiders have reacted in different ways to this question,

Recently, we have admitted that the most important question to consider is not whether or to what extent these groups are Indian. Rather, we have turned our attentions to the process of acculturation the reconstruction of tribal histories, the economic and social integration of Indians into White society, and the problems related to maintaining tribal identity and achieving federal recognition.

PRE-1978 RECOGNITION EFFORTS

Prior to the creation of the Federal Acknowledgment Project in 1976, several tribes discovered disparate means to achieve recognition from the Federal Government. Each case illustrates a lack of understanding of the phenomenon of nonrecognition, the absence of any formal procedure to establish federal recognition, and the isolated condition of those tribes who successfully achieved federal recognition. Not until 1978, through pressure created by Passamaquoddy v. Maine, did the Department of the Interior finally formulate procedures and criteria whereby all nonrecognized tribes could apply for federal recognition.

The Indian Reorganization Act of 1934, which set forth specific procedures through which tribes could establish recognized governments with incorporated status, revived the fundamental right of self-government for Indian groups. Indians were allowed to cast ballots on whether they chose to accept the legislation, then to vote on acceptance of constitutions and by-laws, and on corporation charters. "Congresses of Indians" were held, and where majorities voted to adopt the tenets of the Act the Secretary of the Interior extended federal recognition, thereby acknowledging the existence of

tribes. Using authority contained in Section 16 of the Indian Reorganization Act, federal officials made administrative decisions regarding which groups actually constituted tribes, and which did not.

In response to an inquiry from Henry M. Jackson (Chairman of the Committee on Interior and Insular Affairs) concerning federal recognition of Indian tribes, in 1974, Commissioner of Indian Affairs LaFollette Butler responded:

"In cases of special difficulty, a ruling has generally been obtained from the Solicitor for the Interior Department as to the tribal status of the group seeking to organize. The consideration[s] which, singly or jointly, have been particularly relied upon in reaching the conclusion that a group constitutes a 'tribe' or 'band' have been:

- (1) That the group has had treaty relations with the United States.
- (2) That the group has been denominated a tribe by act of Congress or Executive Order.
- (3) That the group has been treated as having collective rights in tribal land or funds, even though not expressly designated a tribe.
- (4) That the group has been treated as a tribe or band by other Indian tribes.
- (5) That the group has exercised political authority over its members, through a tribal council or other governmental forms.

Other factors considered, though not conclusive, are the existence of special appropriation items for the groups and the social solidarity of the group. The remaining question from your and Mr. Sigo's letters is whether Federal recognition can be extended to a tribe that does not have a land base. A land base is not a requirement for Federal recognition" (LaFollette Butler to the Honorable Henry M. Jackson, January 7, 1974, Washington, D.C.).

Butler also provided Senator Jackson with a list of tribes that had been granted recognition and the specific authority for such recognition:

<u>Tribe</u>	<u>Authority Used</u>
1. Menominee Indian tribe of Wisconsin	P.L. 93-197 Congress, 1st Session, Approved December 22, 1973 (87 Stat. 770)

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|---|--|
| 2. Original Band of Sault St. Marie Chippewa Indians (Michigan) | Commissioner's letter of September 1972, and Solicitor's Opinion of February 7, 1974 |
| 3. Yavapai-Tonto Apache Tribe (Arizona) | P.L. 92-470 (86 Stat. 783) Approved October 6, 1972 |
| 4. Nooksack Indian Tribe of Washington | Solicitor's Opinion M-36833, dated August 13, 1971 |
| 5. Burns Paiute Indian Colony (Oregon) | Solicitor's Opinion M-36759, dated November 16, 1967 |
| 6. Upper Skagit Indian Tribe (Washington) | Act of June 30, 1913 (38 Stat. 101) Deputy Commissioner's letter of June 9, 1972 |
| 7. Sauk-Suiattle Indian Tribe (Washington) | Same as above. These two groups have common ownership in land purchased pursuant to the 1913 Act |
| 8. Coushatta Indians of Louisiana | Letter of June 27, 1973, from Marvin L. Franklin, Assistant to the Secretary of the Interior, and June 13, 1973, supporting memorandum of Acting Director, Office of Indian Services |
| 9. Miccosukee Tribe of Indians of Florida | Indian Reorganization Act of June 1934 (48 Stat. 984), as amended. Approved by John A. Carver, Assistant Secretary of the Interior, January 1962, and November 17, 1961, Order Assistant Secretary of the Interior (Ibid.) |

It should come as no surprise that achieving federal recognition under the Indian Reorganization Act became so confusing that by the 1970s few could agree on who was eligible.

In 1971, President Richard M. Nixon stated that nonrecognized tribes did not come under the responsibility of the federal government but federal justices were of a different opinion. In 1975, in Joint Tribal Council of the Passamaquoddy Tribe v. Morton, the court held that the nonrecognized status of a tribe had no effect on its eligibility for protection under a Trade and Intercourse Act. In

Stillaquamish Tribe of Indians v. Kleppe, the court ruled that the Department of the Interior must respond within thirty days to a tribe's request for recognition. These decisions challenged the basic notion of nonrecognition, and served as a catalyst to reform recognition policy. The new regulations, 25 C. F. R. 83, embody the principle that the federal government has a responsibility toward nonrecognized tribes. Nevertheless, this new policy came into existence only after earlier positions had proven to be untenable in light of recent court decisions, and, of their effects on nonrecognized tribes (Swenson 1981: 84). After the Passamaquoddy decision, petitions for recognition flooded the Bureau of Indian Affairs.

At first, the Bureau was reluctant to initiate any actions that would bring new tribes under federal jurisdiction. While attempting to incorporate the Passamaquoddy and other relevant court decisions into Indian policy, the Bureau of Indian Affairs rejected any broad implications about federal responsibilities. The Department of the Interior adhered to two positions. First, nonrecognition did not exist because there were actually various types of recognition. Second, the Secretary of the Interior possessed no authority to recognize a previously unrecognized tribe. Such had been the case with the Ione Band of Miwok Indians in California. These positions clearly lacked legal justification. Furthermore, the increasing number of petitions for recognition held the threat of judicial review over their processing. The publication of the American Indian Policy Review Commission's report on Terminated and NonFederally Recognized Indians, in 1976, brought to the attention of the general public the social, economic and political plight of an estimated 133 nonrecognized tribes.

The stage was set for the establishment and promulgation of new procedure for tribes to achieve federal recognition. John Shapard, the principle author of "The Procedures for Establishing that an American Indian Group Exists as a Tribe," spent a year consulting with tribal representatives, attorneys, anthropologists, historians, federal agencies, state government officials, and congressional staff members. The result was the creation of the Federal Acknowledgment Project, and seven criteria which each tribe would have to satisfy. The criteria are as follows:

(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as 'American Indian' or 'aboriginal.' A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of tribal activity during various years.

(b) Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area.

(c) A statement of facts which established that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.

(d) A copy of the group's present governing document, or in the absence of a written document a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.

(e) A list of all known current members of the group and a copy of

each available former list of members based on the tribe's own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity.

(f) The membership of the petitioning group is composed principally of persons who are not members of any other North American tribe.

(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the federal relationship. (These criteria are discussed in detail in Charles Blackwell's contribution to this Occasional Paper.)

The formal burden of proof rests with the petitioning tribes. The research necessary to prepare a petition is an extremely expensive and time consuming endeavor. Most of the nonrecognized tribes lack the legal, historical and anthropological expertise required to prepare petitions. This has presented an overwhelming problem to many of these tribes because the federal government has denied any responsibility for the petitioning groups, despite strong recommendations from the American Indian Policy Review Commission and the House Subcommittee on Indian Affairs and Public Lands that financial support be provided.

Nonrecognition of certain American Indian tribes has been a negative aspect of federal Indian policy. Because these nonrecognized tribes presented no real threat to White society, they easily became a "forgotten people." The successful land claims case of the Passamaquoddy shattered the myth of the vanished Indian in the eastern United States. Approximately one hundred letters of intent to petition the

Federal Government for recognition clearly demonstrate that many of these tribes did indeed survive more than three centuries of disintegrative attacks. The Federal Acknowledgment Project has become one more obstacle to be overcome as these nonrecognized tribes seek to establish their legal trust relationship with the Federal Government.

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AMERICAN INDIANS, TRUST AND RECOGNITION

by
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ACKNOWLEDGMENT AND INDIAN LAW

Federally acknowledged Indian tribes have a unique and special status in the United States, unlike that of any other group. This status derives from the Indian's prior inhabitation of the lands now comprising the United States; and from their independent and autonomous political structures, recognized at the time of White contact. A brief survey of the history of Indian law is helpful in understanding the nature of this special status, and in understanding the responsibilities the Federal Government has to acknowledged Indian tribes.

Article 1, Section 8, CL-3 of the Constitution, known as the Commerce Clause, provides Congress with the power to "regulate commerce with foreign Nations, and among the several states, and with Indian tribes." Indians are specifically mentioned in two other instances in the Constitution, but the Commerce Clause was precedent setting in acknowledging the inherent sovereignty of Indian tribes, equal to that of foreign nations.

In Cherokee Nation v. Georgia, (1831), Chief Justice John Marshall reaffirmed the sovereign status of Indian tribes. Additionally, he acknowledged the existence of a unique protectorate relationship in which tribes, as "domestic dependent nations," had a relationship with the Federal Government which "resembles that of a ward to his guardian."

Marshall further described this relationship in Worcester v. Georgia, (1832):

The settled doctrine of the Law of Nations is, that power does not surrender its independence --

acquire Indian lands. However, the sovereignty of tribes was recognized to the extent that Indians negotiated treaties with the Federal Government as foreign nations. On March 3, 1871, Congress passed legislation bringing an end to the tribe's rights to negotiate treaties:

Hereafter no Indian Nation or Tribe within the Territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty.

This act initiated a new low cycle in Federal Indian Policy. From this year until the early 1920s, rights of tribal sovereignty were consistently reduced and restricted. The protectorate responsibility was neglected in favor of legislation that would cede Indian lands to Whites, and reduce the constitutional rights of self-government in Indian Country.

Of great significance during these years was the Allotment Act of 1887, sometimes referred to as the Dawes Act. This legislation was designed to give tribal land to individual Indians by allotment, making "surplus" tribal lands available for White settlers. The justification for this new tactic in land acquisition was that it would force Indians to learn to farm and thus integrate them into White culture faster. Actually, it was a major force in destroying the tribes rights of sovereignty and reducing the Federal responsibility of the trust relationship. The very existence of tribes and tribal lands was threatened.

The tide in federal Indian policy began to turn in 1924 with the Indian Citizenship Act. With that legislation, Indians born within

self-government by associating with a stronger, and by taking its' protection. A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state.

In these decisions, Chief Justice Marshall describes two basic principles of Indian law. First, that Indian tribes have an inherent right to self-government and self-determination; and second, that the Federal Government bears a trust responsibility to the tribes. In United States v. Wheeler, (1978), the Supreme Court declared that tribes' rights to self-government are not delegated by Congress, but are "inherent powers of a limited sovereignty which has never been extinguished." The "limited sovereignty" status is based on three principles drawn from Supreme Court decisions concerning Indian law: (1) an Indian tribe possesses, in the first instance, all the powers of any sovereign state; (2) conquest renders the tribe subject to the legislative power of the United States, and, in substance, terminates the external powers of sovereignty of the tribe; and (3) these powers are subject to qualification by treaties and by the express legislation of Congress.

This unique sovereign status of tribes has been threatened during several periods of American history. When sovereignty is endangered, so is the trust relationship between the Federal Government and tribes.

The period between the founding of this country and the year 1871, when the United States ceased making treaties with Indian tribes, is characterized by aggressive land acquisition and westward expansion. During this period, the inherent rights of sovereignty were slowly eroded through legislation and executive order designed to

the territorial limits of the United States were given rights of citizenship without requirements of land ownership. Indians had now gained the same rights to citizenship given other Americans.

The Indian Reorganization Act of 1934 was perhaps the most important single piece of legislation for reasserting tribal sovereignty after the period from 1871 to 1924. The Act acknowledged tribes' "rights to organize for its common welfare" by way of a constitution and bylaws. It enumerated the powers vested in the tribes through their constitutions, including: (1) rights to hire legal counsel for the tribe, (2) rights to make land dispositions by and for the tribe, and (3) specific rights to "negotiate with Federal, state and local governments." Finally, it gave tribes the right to obtain a Charter of Incorporation. To acquire such a charter, a tribe submitted a petition, signed by one third of the tribe's members, to the Secretary of the Interior. The charter of incorporation acknowledged the tribe's rights to acquire, manage, and dispose of property of every description, real and personal; and significantly, the tribe was acknowledged as having the right to conduct corporate business.

Yet another step toward re-establishing a tribe's inherent rights to sovereignty was the Indian Self-Determination Act of 1975. This legislation provided for strengthening and improving Indian self-government by "assuring maximum Indian Participation in the direction of educational as well as other federal services to Indian communities." Further, it asserted:

Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship

with, and responsibility to the Indian people through the establishment of a meaningful orderly transition from federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

This brief survey illustrates federal Indian policy fluctuations from the founding of this country to the present. However these swings in policy may have changed the status of tribes, the two basic principals of the right of self-government and the trust relationship, outlined by Chief Justice Marshall in 1832, remain. It should be remembered that basic principles of Indian law and the interpretation of that law, Indian policy, apply only to acknowledged tribes. Unrecognized tribes have no official standing as Indians. They have no rights of sovereignty and are not participants in the trust relationship.

ACKNOWLEDGMENT AS AN INDIAN TRIBE

Motivations for pursuing Federal acknowledgment will differ with each tribal group. However, most groups cite three areas of benefit.

One important reason for a tribal group's wanting acknowledgment is establishment of self-government. These groups want more control over tribal affairs. Acknowledgment means that the tribe has the previously mentioned rights to charters of incorporation, as well as constitutions, criminal codes, and the articles of self-government. Establishing these sovereign rights brings the opportunity to enter into litigation as a tribe on behalf of its members. This is becoming increasingly important in disputes over natural resources; such as land settlements, water rights and mineral rights as well as

hunting and fishing rights. This also includes the power to negotiate and mediate issues with other governmental entities.

Another often cited benefit of acknowledgment is the eligibility of the tribe and tribal members for federal Indian service programs as participants in the federal trust relationship. Without acknowledgment, American Indians are eligible for federal assistance only as American citizens. Once acknowledgment has been obtained, programs designed to fulfill the trust responsibility, including hospitalization programs, housing assistance, and educational and human service programs, become available. Although these programs are important to Indian communities, federal trust benefits are not the primary motivation for seeking acknowledgment.

For many groups, the most important reason for pursuing federal acknowledgment is prestige and honor in establishing the government-to-government relationship with the United States and other governmental entities. These groups feel that the absence of federal acknowledgment represents a second-class status within the Indian community. Incorrectly, they feel that the lack of acknowledgment is a questioning reflection on their Indian heritage. For these people, acknowledgment is an affirmation of that heritage and official recognition of their tribal ancestry: an expression of their Indian pride.

An unrecognized tribal group may pursue acknowledgment through three approaches: Executive, legislative or administrative.

Federal acknowledgment by Executive Order of the President appears unlikely under the current administration, and has not historically been of importance to tribal groups.

Federal acknowledgment can be obtained through congressional legislation. The tribal groups must enlist the support of a legislator who will sponsor legislation which officially acknowledges their existence as an Indian tribe. Although this appears to be a relatively simple procedure, it is not without its problems. Legislative staffs have become increasingly aware of the problems inherent with acknowledgment of tribal groups. Legislators are now reluctant to sponsor legislation acknowledging tribal groups and many groups find legislators unsympathetic or ill-informed in the area of Indian law and acknowledgment.

The inability of the executive and legislative approaches to deal with the problem of the many unacknowledged tribal groups gave rise to the third, and most important, approach to acknowledgment, the administrative approach. Because there existed no single, standard procedure through which tribal groups could obtain federal acknowledgment, the Bureau of Indian Affairs in the Department of the Interior adopted regulations to provide a uniform process for tribes seeking acknowledgment.

Federal Regulations 25 CFR 83, "Procedures for establishing that an American Indian group exists as an Indian Tribe," became effective on October 2, 1978. These regulations establish the first uniform requirements and procedures for tribal groups seeking acknowledgment. The regulations call for a petition, to be submitted to the Bureau of Indian Affairs, which addresses seven basic requirements for acknowledgment.

The Federal Acknowledgment Project (FAP) was organized within the Bureau of Indian Affairs to administer the program. Project personnel

provide limited technical assistance to petitioning groups, review completed petitions, noting any deficiencies, and make final recommendations concerning acknowledgment to the Secretary of the Interior. If the tribal group receives a favorable recommendation and that recommendation is approved by the Secretary, it will be acknowledged as an Indian tribe.

The first step in the petition process is the letter of intent. This letter is important because it establishes the order in which the petitions are reviewed by the Federal Acknowledgment Project.

Immediately after the decision has been made to submit a petition, the tribal group sends a letter to the FAP explaining that it intends to petition for federal acknowledgment. Important information which should be included in this letter is: the tribe's official name, the name and address of a person designated to serve as primary correspondent, and a statement that this decision is not that of one person, but of the group as a whole. It is advisable for the tribal group to include a copy of a resolution to that effect, signed by the Tribal Council or governing body.

The order for review of the petitions is determined by the sequence in which the letters of intent are received.

Regulations 25 CFR 83 specify seven basic criteria which must be met by petitioning groups. These criteria are listed in the regulations as 54.7, paragraphs (a) through (g). Although the regulations dictate that all seven of the criteria must be met, it does not specify the format of a petition. Any readable form is acceptable; however, the experience of many groups which have submitted petitions since the origination of the project does provide some helpful insights in the best format.

The best approach to organizing the petition does not seem to be a listing of the seven criteria and the information required, but instead an historical narrative of the tribal group. In the course of this narrative, information should be furnished to demonstrate compliance with all criteria. The narrative should begin with the time of known White contact and continue to the present.

A thorough and well documented petition for acknowledgement is an expensive and time-consuming undertaking, requiring a broad range of human resources. The technical assistance of attorneys, historians, ethnohistorians, anthropologists, genealogists and writers will be needed during the petition process. The time required by these professionals for the research, preparation, documentation, and final writing may be estimated at two and a half to five years. Because most tribal groups eligible for acknowledgment are very small, poor entities, they should have a full understanding of the roles and responsibilities of the technical assistants involved in the petition process. This understanding will result in efficient use of resources, human and financial, and an accurate and complete petition. Additionally, a thoughtful, well organized strategy will produce a document that requires less time for the Federal Acknowledgment Project to review and process.

The staff of the Federal Acknowledgment Project is available for technical assistance either through correspondence or by telephone. Because of limited personnel and the unexpected large number of petitioning groups, assistance is limited to general questions regarding the petition process or questions concerning sources for documentation. The staff is not able to offer assistance in research

or documentation beyond suggesting sources and approaches. With this in mind, the Federal Acknowledgment Project has prepared and published guidelines which they will furnish upon request: "Regulations, Guidelines, and Policies for Federal Acknowledgment as an American Indian Tribe." Included in this pamphlet is a brief explanation of Federal Regulations 25 CFR 83 as well as suggestions for the preparation of a petition. Tribal groups will find useful the resource lists of organizations and agencies available for assistance in the development of individual research issues.

As explained in the guidelines, it is the responsibility of the Federal Acknowledgment Project staff to review the petitions, identify deficiencies, provide assistance in correcting those deficiencies, and make acknowledgment recommendations to the Secretary of the Interior. The burden of preparing the petition falls upon the tribal group, and especially the professionals they retain to assist them.

Before a tribal group has made a final decision to submit a petition, it should contact an attorney. Many legal issues will be raised by the petition process and an attorney will have the important role of explaining the regulations in understandable lay language to the group's governing body. These officers should be made well aware of the requirements of the regulations, the benefits and responsibilities of the federal trust relationship, the alternatives to the petition process for securing federal acknowledgment, and alternatives to federal acknowledgment (i.e. state recognition). With the attorney's help, a well-informed decision can be made by the Tribal Council.

Once the decision has been made to submit a petition, the

attorney's role becomes one of overall administrator. He can provide organization and direction in the approach, and assist in securing the professional technical assistance required. Most attorneys will not be skilled in the disciplines required for the research, but as an administrator the attorney can orchestrate these efforts.

Another important issue which the attorney will deal with concerns the legal responsibilities of researchers. Some petitioning groups have had problems with the disposition of material produced by the research staff. Questions concerning ownership of petition material pertain to: original notes and interviews, oral history transcripts, publishing rights, and the final document. All should be addressed jointly by the Tribal Council and the attorney. Contracts with consultants should enumerate these decisions. Generally, raw field data remains the property of the researcher, as a measure to protect the anonymity of sources and to insure full disclosure. The petition document, in all stages of preparation, is the property of the tribal group. Rights to publishing articles related to field research will depend on previous arrangements between the researcher and the tribal group. Only after these decisions have been made will the research and documentation of the tribal group by the technical assistants begin.

The objective in the preparation of the petition is to write and document a narrative tribal history. This narrative will depend heavily on the group's interactions with its social, political, and natural environments, past and present. Documentation of these interactions may prove difficult.

Many years during a tribe's history may reflect self-enforced

cultural isolation. Indians in the Southeast frequently protected themselves by avoiding the White political and social structure that would have recorded their existence. Researchers of southern tribal groups which escaped the Oklahoma removal, known as the "Trail of Tears," may face this problem

Some groups are difficult to document because they have in the past hidden under another, safer identity. Many California Indians survived because they were carelessly identified as Mexican by territorial, state, or national census takers.

The researchers, especially the ethnohistorians, will write the tribal history in light of these social and political considerations. Professional expertise will be required to evaluate the existing documents and find explanation for the gaps in documentation. An approach which includes part anthropology, part ethnohistory, and part social history may be the best approach to the historical narrative.

Because the areas of research of the anthropologist, ethnohistorian and historian overlap, the work need not necessarily be done by three individuals. Some anthropologists are skilled ethnohistorians and some historians are skilled in anthropological research. The sensitivities and capabilities of the individuals should be considered as the work progresses.

The anthropologist's responsibility is to research and describe the traditional community of the tribal group. He or she will describe social and cultural roles of members and parameters for membership. The anthropologist will trace those traditional social and cultural structures to the present. Much of the anthropologist's work will come from the oral traditions of the group or from earlier

work by anthropologists with related groups.

A genealogist will describe tribal membership and family lineage. Specifically, the genealogist traces a tribal member's line of descent. To do this the genealogist works with knowledgeable individuals and families within the petition group to describe the tribal ancestry. The petition requires that current tribal members trace their descent within the tribe. Because the genealogist works with information which is sometimes very sensitive, it should be established from the beginning of the project that all genealogical information is strictly confidential.

The Federal Acknowledgment Project has developed two charts which may be helpful in tracing family ancestry. If the charts are used, it is the responsibility of the genealogist to secure the information they require and to supply supporting documentation. All genealogical documentation should include full name, including maiden name, place and date, and current address.

Additionally, the genealogist would be responsible for finding membership rolls and other evidence of membership. Evidence of membership might include attendance rolls of meetings, accounts of social or religious activities, or birth, marriage, or death certificates that mention tribal affiliation. These records are found in public and private archives, and the private collections of members.

Finally, the skills of a writer will be needed to put the work of the various professionals into a format that addresses the seven basic criteria in a logical, coherent and thorough manner.

Because the petition will be reviewed in detail and documented by

the FAP staff, the technical assistants who are responsible for its preparation should be very thorough in recording supportive documents. A file should be kept with the exact location of each document important to the petition. Documents which are in personal collections or are otherwise difficult to obtain should be copied, with one copy going into a permanent file, and one copy furnished with the petition. The person responsible for the overall management of the petition process should be responsible for the document location file.

A thorough recording of documents and their locations will speed the petition review and will assist in the historical narrative approach. It will also serve to protect those involved in the petition preparation: both the technical assistants, should their findings be disputed by members of the tribal group, and the tribal group, should new technical assistants be hired in the course of petition preparation. The consultants and the tribe will have a record of all previous work.

A review of the seven criteria required by the petition will illustrate the value of the historical narrative approach. Included are some suggestions for sources and documentation.

25 CFR 83

"Regulations, Guidelines, and Policies for Federal Acknowledgment as an Indian Tribe."

- 83.7 The petition may be in any readable form which clearly indicates that it is a petition requesting the Secretary to acknowledge tribal existence. All of the criteria in paragraphs (a)-(g) of this section are mandatory in order for tribal existence to be acknowledged and must be included in the petition.

(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as "American Indian," or "aboriginal." A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of tribal activity during the various years. Evidence to be relied upon in determining the group's substantially continuous Indian identity shall include one or more of the following:

- 83.7 (a) (1) Repeated identification by Federal authorities;
- 83.7 (a) (2) Longstanding relationships with State governments based identification of the group as Indian;
- 83.7 (a) (3) Repeated dealings with a county, parish, or other local government in a relationship based on the group's Indian identity;
- 83.7 (a) (4) Identification as an Indian entity by records in courthouses, churches, or schools;
- 83.7 (a) (5) Identification as an Indian entity by anthropologists, historians, or other scholars;
- 83.7 (a) (6) Repeated identification as an Indian entity in newspapers and books;
- 83.7 (a) (7) Repeated identification and dealings as an Indian entity with recognized Indian tribes or national Indian organizations.

83.7 (A) requires that the petitioning group prove a continuous Indian identity from the time of first contact with non-Indians until the present. The significant portion of this criteria is the requirement for continuity. Documentation on a continuous basis will require a great amount of thorough research, and gaps in the documentation will occur. Although a year by year account is clearly impossible, it should be noted that the more complete the record, the stronger the case.

Seven kinds of evidence which will support an Indian identity are suggested. Any or all of these may be used, although some kinds of evidence present a much sounder case.

Because acknowledgment initiates the formal federal/tribal trust relationship, previous identification by federal authorities is the most desirable kind of evidence suggested. Federal documents which might show tribal identity and an Indian's identity include treaties,

agreements, army records, Bureau of Indian Affairs records, federal court records, or census records. These and other federal documents are found in the National Archives or the Library of Congress.

The next suggested kind of evidence used to document the claim of Indian identity, and second in desirability, is a longstanding relationship between the group and state governments. These relationships may be demonstrated by records of state Indian commissions, inclusions of the tribal group (by Name) in state budgets, specific mention in state laws or records of state courts, or documents illustrating the existence of state reservations. These and other state records may be found in state archives or regional branches.

An Indian identity may also be established using county or parish records which specifically mention the tribal group. These records include land held in trust, special services provided for the group, local budgets that include the group specifically, or local ordinances that refer to the group specifically. County records can be found at county courthouses and in some state archives.

Additionally, some sources such as works by anthropologists, ethnohistorians or other scholars may identify the group as American Indian. Books, articles, theses, dissertations, and unpublished research material may contain supportive documentation. University and college anthropology departments will be helpful when looking for this kind of evidence.

Newspapers, books and magazine articles can provide useful information. Although not as reliable as other sources, they should also be investigated. Researchers should contact libraries and local

newspaper offices for information. Most state archives have early newspapers available on microfilm.

The final, and least desirable, kind of evidence suggested by the regulations for supporting the case for an Indian identity is repeated dealings with recognized tribes or national Indian organizations. Researchers should look for minutes of meetings, membership lists, or other documents which include the tribal group by name.

83.7 (b) Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area.

83.7 (B) of the regulations has two requirements: (1.) That a significant number of members of the petitioning group live in close enough proximity that they can, and do, regularly and actively associate as a tribe, (Tribal association includes social, religious, and business activities.) and (2.) that the petitioning group prove descendancy from an historical tribe which traditionally inhabited a specific area.

The petitioner must prove that the community members are viewed as American Indian, and distinct from other local populations. The evidence should confirm that this view is held not only by the petitioning group, but by the local population, as well.

Evidence of social and business activity as a tribe may include minutes and roll calls from tribal meetings or tribal council meetings, records of other organizations which represent the tribal group, or social or religious festivals for the benefit of the tribal group. A map showing the distribution of the group's members may help demonstrate the existence of a tribal community.

The second requirement of paragraph (B) is that petitioners supply evidence to demonstrate that they are descendants of an Indian

tribe which traditionally inhabited a specific area. It is not necessary that the current group inhabit the same area as its ancestors, but the history of the group should document the change in area of inhabitation.

83.7 (c) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.

83.7 (C) requires evidence to establish the existence of some manner of decision making process for the group throughout history. The petition should clearly illustrate how the decisions have been made and how they have been enforced. If this process has changed through time, this change should be documented. Evidence of self-government includes settlement of land disputes, dispositions of land or property, or decisions regulating trade with persons outside the group.

The professional assistance from anthropologists and ethnohistorians will be helpful in researching and documenting these first three of the seven basic criteria.

83.7 (d) A copy of the group's present governing document, or in the absence of a written document, a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.

Governing documents which should be submitted include current constitutions, bylaws, or charters. If the petitioning group is not governed by any such documents, a statement of the group's decision making process should be submitted. Also required by paragraph (D) is a statement explaining requirements for group membership. If a formal document governs membership requirements, it should be included.

83.7 (e) A list of all known current members of the group and a copy of each available former list of members based on the tribe's own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descent from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity. Evidence acceptable to the Secretary of tribal membership for this purpose includes but is not limited to:

- 83.7 (e) (1) Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;
- 83.7 (e) (2) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being an Indian descendant and a member of the petitioning entity;
- 83.7 (e) (3) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity;
- 83.7 (e) (4) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant of the tribe and a member of the petitioning entity;
- 83.7 (e) (5) Other records or evidence identifying the person as a member of the petitioning entity.

A petitioning group must submit a current membership roll and a copy of all previous membership rolls known to exist. Evidence should be supplied to prove that members on the current membership roll are descendants from an historical Indian tribal group, or from two or more groups which have combined historically and now act as one autonomous group. The Federal Acknowledgment Project staff has prepared an "Individual History Chart" and an "Ancestry Chart" which may be used in the petition.

The "Individual History Chart" requires documentation of the active adult members and other immediate families. Unmarried children and members younger than 18 years old may be included on parent's charts. All other members should submit a chart if the petitioner decides to use the chart.

The "Ancestry Chart" delineates a family's descent from its ancestors. Only one chart is required for all the members of an immediate family. The family's "Individual History Charts" should be submitted with the "Ancestry Charts." A trained genealogist will be most helpful in the completion of these charts.

Other evidence which will support tribal membership is listed in the regulations under 83.7 (E), paragraphs (1) through (5). A petitioning group is not limited to this list in its search for documents.

83.7 (e) (1) cites the use of descendancy rolls prepared by the Secretary of the Interior for distribution of monies awarded by the Court of Claims, the Indian Claims Commission, or by congressional authority. Descendancy rolls were also prepared for other legal purposes: for example, distribution of land allotments. These records are kept by the Bureau of Indian Affairs and may be requested by individuals listed on those rolls and their immediate families.

83.7 (e) (2) other helpful records may be found at state archives, county courthouses, or at the agency office of the Bureau of Indian Affairs. Certificates of birth, marriage, or death, land or tax records, or federal, state, or territorial census records may contain information concerning tribal membership.

83.7 (e) (3) church and school records may also prove useful. Documents which might identify a tribal ancestry include records of marriages, baptism, funerals, and church membership rolls. Schools attended by tribal members may have information which documents a tribal ancestry. These records can be found in local school and church archives, or Area Offices of the Bureau.

83.7 (e) (5) additionally, personal records such as family bibles, family histories, letters and other personal affects may be used as supporting documents. Most of this material is still held by the individual families and will require lengthy research to locate.

83.7 (f) The membership of the petitioning group is composed principally of persons who are not members of any other North American Indian tribe.

Evidence should be furnished to show that the majority of the petitioning group's membership is not composed of people who are members of other recognized Indian tribes. If some members share joint membership, they should not be encouraged to relinquish other memberships for the benefit of the petition. This will not strengthen the case for acknowledgment, and should the petition be unsuccessful they will be without tribal membership. If the Secretary finds for acknowledgment of the petitioning group, they will be required to make a decision regarding tribal affiliation.

83.7 (g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

The final criterion requires that the petitioning group demonstrate that its members have not previously participated in a federal trust relationship which has been terminated by Congress. Additionally, the membership of a petitioning group may not be composed of people who are members of a terminated tribe.

This clause is required because congressional legislative action cannot be reversed through the administrative process.

Because such congressional legislation is a matter of public record, a statement by the petitioner that this is not known to be the case will suffice.

The Federal Acknowledgment Project reviews petitions on a case by case basis in the order in which individual letters of intent are received. Once under active review, several months will be required to process a completed petition. The Project staff will document information supplied by a petitioner through archival research and on-site visits to the tribal group.

Should the researchers find deficiencies in a petition, they will make suggestions for correcting those deficiencies. The petitioner will be given the opportunity to proceed with their research or documentation while the FAP staff works on another petition.

If the deficiencies cannot be corrected by the petitioner, the FAP will submit to the Secretary of the Interior a recommendation for finding against acknowledgment. If these deficiencies can be corrected, the group will receive a favorable recommendation.

Once the recommendation has been made, respondents (any persons or groups interested in the outcome of the acknowledgment effort) are given 120 days to submit information pertinent to a petition. Some already acknowledged tribes fear that as the number of acknowledged tribes grows the limited federal resources available to Indians will be spread thinner. They see acknowledgment of other tribal groups as a threat to their existence.

Some tribal groups preparing a petition feel that acknowledgment of a closely related group will support their case for acknowledgment. Non-Indians in the community may have information which should be taken under consideration during the review process.

After reviewing new information or opinions supplied by respondents, the Secretary of the Interior makes a final ruling on the case.

The Federal Government has grossly underestimated the response to 25 CFR 83. It now seems likely that as many as 250 tribal groups are potential petitioners for acknowledgment under these regulations. For the most part, these groups are very poor, small entities, unaccustomed to dealing with government agencies. They need the

technical assistance of the specialists mentioned above, but have little in the way of financial resources to pay for their services. They lack the expertise to know where these experts can be found and how to contact them. The general atmosphere among petitioning groups is one of confusion and helplessness.

There now exists no national resource center for tribal groups preparing a petition of acknowledgment. Reductions in personnel at the Federal Acknowledgment Project have restricted the assistance it can provide to petitioners. It is hoped that this paper has illustrated that need.

For further information about the Federal Acknowledgment Project, contact:

The Federal Acknowledgment Project
U.S. Department of the Interior
Bureau of Indian Affairs
1951 Constitution Avenue, N.W.
Washington, D.C. 20245
(202) 343-3568

American Indian Tribal Government and Policy Consultants
1803 Carlisle, N.E.
Albuquerque, New Mexico 87110
(505) 266-0615

American Indian Research and Resource Institute
P.O. Box 576
Gettysburg College
Gettysburg, Pennsylvania 17325
(717) 334-3131 ext. 399

RESOURCE PEOPLE FOR FEDERAL ACKNOWLEDGMENT RESEARCH

By

Shirley A. Canchola

RESOURCE PEOPLE FOR FEDERAL ACKNOWLEDGMENT RESEARCH

The National Indian Lutheran Board, supported by grants from the Administration for Native Americans, has sponsored more than a dozen workshops and seminars to assist Indian tribes seeking federal recognition. The purpose of these workshops and seminars was to extend expertise to attorneys, anthropologists, historians, genealogists, administrative planners, writers, research assistants and Indian people regarding the recognition process, and about procedures required when seeking tribal status clarification. The National Indian Lutheran Board has also made an effort to compile a list of resource people from across the country who have indicated their willingness to give technical assistance to these nonrecognized tribes. Both the National Indian Lutheran Board and the American Indian Research and Resource Institute will continue to seek potential resource people and make them known to these tribes. This list is not meant to be a comprehensive listing of resource persons involved in working on status clarification petitions, but is the list that represents the persons who have come to the attention of the American Indian Research and Resource Institute at this time.

ANTHROPOLOGISTS

Adams, John
1520 Senate Street, Apt. 20A
Columbia, SC 29201
803/799-2692
Department of Anthropology
University of South Carolina
803/777-6500

BA Princeton 1951
Johns Hopkins University - graduate
work in economic history '53-'54
Ph.D. Harvard 1970
FEE: volunteer

Apabrucki, Christine
c/o Wampabnoag Tribal Council
State Road
Gay Head, MA 02535
617/645-9265

Is Ph.D. candidate and received BA
at Queens College. Preference is not
a large city.

Bean, Lowell John
155 Lakeside Drive
Oakland, CA 94612
415/832-8489

Primary background is anthropology
but also identifies with ethnohistory,
archaeology and environmental studies.
Now at California State University at
Hayward.
FEE: \$300 and expenses

Beckham, Stephen Dow

See Ethnohistorian list

Blu, Karen I.
Assistant Professor
Department of Anthropology
New York University
201 Rufus D. Smith Hall
25 Waverly Place
New York, NY 10003
212/598-3257
609/924-4211 Princeton

Primary activity has been with Lumbee
Indians. Alternates time between New
York and Princeton for writing.
FEE: Volunteer time, needs expenses

Boyer, Eunice
Carthage College
Kenosha, WI 53140

Would volunteer depending on amount
of time required.

Campisi, Jack
State U of New York at Albany
1400 Washington Avenue
Albany, NY 12222
518/457-8404

BA, History; MA, Social Studies; Ph.D.,
Anthropology; Post-doctoral School of
Criminal Justice. Has done multiple
research projects for Northeastern
tribes.
FEE: \$100 per day plus expenses

Cantwell, R. J.
13587 Avenue 84
Pixley, CA 93256
209/757-1477

Clatts, Michael
Department of Anthropology
University of Maryland
College Park, MD 20742

Currently working with Piscataway.
Site preference: East, possible SW.
FEE: negotiable

Cleaves, Robert
Wesleyan University
P.O. Box 1400
Wesleyan Station
Middletown, CT 06457

Senior at University. Has worked with Houlton Band of Maliseets and the Texas Band of Kickapoos, was intern with Senate Select Committee on Indian Affairs summer of '81.

Davis, Shelton H.
Anthropology Resource Center
59 Temple Place Suite 444
Boston, MA 02111
617/426-9286

Director of non-profit program dedicated to practice of public interest anthropology.

Dirks, Jane D.
920 Madison Avenue
Albany, NY 12208
Department of Anthropology
SUNY-Albany
1400 Washington Avenue
55369
Albany, NY 12222

Worked with Nipmuc Indians of Massachusetts.
FEE: Volunteer

Elling, C. Michael
8075 Skyline Boulevard
Oakland, CA 94611

Background in historical archaeology. Historical research includes Federal Acknowledgment petition for Yosemite Indians.

Faust, Betty
P.O. Box 169
Morristown, NY 13664

Specializes in anthropology of law. Prefers to work in southwest, especially in California. Available May 10-August 25, 1984 or 1985.
FEE: \$5,000 per year plus room and board and work related expenses

Forward, Jean S.
Box 112
Wendell, MA 01379
Department of Anthropology
University of Massachusetts
Amherst, MA 01003

Worked with Micmac and Wampandag.
FEE: Volunteer

Grabowski, Christine
c/o Wampanoag Tribal Council
Gay Head, MA 02535
617/645-9265

BA Queens College-1973 and Ph.D. candidate. Interested in the status of indigenous groups.

Green, Rayna
4 Dana Road
Hanover, NH 03755
603/646-3607

Fellows at Society of Applied
Anthropology and Smithsonian Institute
Prefers Southeast and work in summer
of 1983.
FEE: From \$2-300.00

Gregory, Pete
Professor of Anthropology
Department of Social Sciences
Northwestern State U of Louisiana
Natchitoches, LA 71357
318/357-4364

Has worked as unpaid consultant with
tribes in Louisiana (Tunica-Biloxi,
Choctaws and a mixed population
descended from freed slaves).
FEE: Expenses only

Hammond, Peter B.
Anthropology Department
341 Haines Hall
University of California-LA
Los Angeles, CA 90024
213/825-2511

FEE: \$193

Herron, John G.
610 Dudley Street
Lakewood, CO 80215
303/238-7096

Is a cultural anthropologist/
paralegal and has done extensive
genealogy for Timbisha Band of
Shoshone Indians in Death Valley, CA.
Would volunteer services.

Kasakoff, Alice Bee
1520 Senate Street, Apt. 20A
Columbia, SC 29201
803/799-2696
Department of Anthropology
University of South Carolina
803/777-6500

BA Radcliffe 1962
Ph.D. Harvard 1970
Kindship, marriage, demography, regional,
organization and spatial interaction,
North American Indians, colonial New
England.
FEE: Volunteer

Maxwell, Thomas J.
California Lutheran College
60 Olsen Road
Thousand Oaks, CA 91360
805/492-2411 x393

Did some research on Indians of the
Northeast. Research assistant at
Indiana University for 2 years on
Indian claims in Northwest Territory
(Chippewa, Ottawa and Potawatomi).

Medicine, Beatrice
Department of Anthropology
California State U-Northridge
1811 Nordhoff Street
Northridge, CA 91330

Extensive background with American
Indians.
FEE: \$100

Miller, David R.
Associate Director
Center for the History of the
American Indian
The Newberry Library
60 West Walton Street
Chicago, IL 60610
312/943-9090

MA in American History; Ph.D. candidate
in Cultural Anthropology. Has worked
as a research assistant on several
cases concerning groups in Western
Great Lakes and Northern Plains.
Representative of the CHAI, information
available on McNickle Tribal Historian
Fellowships.

Oliviero, Melanie B.
R.D. #171
Stamford, NY 12167

Works with Alliance for North American
Cultures and Arts (ANACA). Background
in sociolinguistics, Indian law and
policy. Worked with Abenaki.
FEE: Volunteer (\$150 per diem if
available).

Ortiz, Alfonso
830 Zia Road
Santa Fe, NM 87131
505/277-5700 office
505/983-7119 home

Has done ethnohistory work on
Eastern and Southeastern tribes.
MA and Ph.D. in Anthropology. Site
preference is Southern US and
Trans-Mississippi West.
FEE: \$100/day plus expenses
negotiable depending on distance

Polzer, Charles W., S.J.

See Ethnohistorians

Paredes, J. Anthony
Department of Anthropology
Florida State University
Tallahassee, FL 32306

Professor in the Department.

Pabkin, Paula Ellen
265 1/2 Humphrey Street
New Haven, CT 06511
203/789-1629

Yale doctoral program in Anthropology
Fieldwork and research include
Northeast, Akwesasne, Philadelphia U
Museum, Carolinas, Peabody Museum

Ray, Verne F.
P.O.Box 586
Port Townsend, WA 98368
206/385-0438

Emeritus U. of Washington. Now in
private practice. Has assisted some
tribal groups prepare petitions and
worked with FAP office.
FEE: Negotiable but modest,
considering nature and objectives of
the work.

Rudy, Sylvia Kendrick MacColl
"Kendy"
Assistant Professor
of Anthropology
Upsala College
East Orange, NJ 07019
201/266-7282

Would volunteer on weekends on
sufficient notice; summer

Schaaafsma, Curtis F.
Director, Laboratory of
Anthropology
Museum of New Mexico
Box 2087
Santa Fe, NM 87503

Is available on an individual basis
or utilizing the services of New
Mexico State Laboratory of
Anthropology.

Starna, William A., Ph.D.
1 West Street
Oneonta, NY 13820
607/433-2230

Currently Chairman, Assistant Professor
in Anthropology, State University of NY
College at Oneonta. Extensive
background in NE part of country. Site
preference: Northeast, Mid-Atlantic,
and Southeast.
Fee: \$100 per day minimum

Storm, Donald J.
P.O. Box 552
Oregon House, CA 95962
916/692-1884

Anthropologist/Archeologist. Has
worked in Maidu Native America
community. Site preference in that
area.
FEE: \$75.00 per day depending on what
needs to be done.

Swenson, Sally
31 Bardwell Street, #2
Jamaica Plain, MA 02130
617/524-1169 home
426-9286 work

Currently publications coordinator at
Anthropology Research Center.
Background includes Federal Indian
Policy. Prefers New England area.
FEE: Negotiable. Would like to see a
return to the Anthropology Research
Center.

Thurman, Blake
Office of the Dean
Hobart College
Geneva, NY 14456

Ph.D. Syracuse University 1979
FEE: Volunteer

Turner, Allen C.
Department of Sociology,
Anthropology, and Social Work
Idaho State University
Pocatello, ID 83209

Has done work with San Juan Southern
Paiute ('78-'79). Turned project over
to Dr. C. Hoffman at N AZ U in Flagstaff.
Wishes to continue working with this
tribe. Volunteer between June-August,
1982.
FEE: General consulting rate is
\$150/day or \$2,000/month.

Weiner, Diane
2 Gardner Street, Apt. #2
Allston, MA 02134
617/254-2297

Working on thesis of socio-economic
conditions of the Micmac Indians of
Aroostook County. Prefers assignments
near Chicago or San Francisco.
Available full or part time after
graduation.
FEE: negotiable

Weinstein, Laurie Lee
38 Russell Street
Plymouth, MA 02360
Plymouth Plantation
Box 1620
Plymouth, MA 02360

Worked with the Pequot Indians and
Mashpee Wampanoag
FEE: \$40 per diem

Willard, William
Native American Program
Washington State University
Pullman, WA 99164-3420
509/335-8676

Williams, Aubrey Dr.
Department of Anthropology
University of Maryland
College Park, MD 20742

Director of Native American Program
at University. Has Ph.D. at U of
Arizona in Tucson. Prefers Seattle/
San Francisco are for work.
FEE: Terms are by arrangement.

Currently working with Piscataway.

ATTORNEYS

Buesing, Gregory P.

See Ethnohistorian.

Chaves, John L.

12708 Fremont Avenue SW
Seattle, WA 98133
206/362-8279
543-2645

Maynor, Waltz

1626 University Drive
Durham, NC 27707
919/683-6347 work
489-8366 home

Primary background in Education and Mathematics. Post doctoral in Law. Site and available time is flexible. FEE: none stated

Stanley, E. H.

32 May Street
Portland, ME 04102

Specializes in Indian law/policy and has assisted several groups with FAPs in NE region.

Stanton, Gregory H.

Yale Law School
127 Wall Street
New Haven, CT 06520
203/436-1025

Also has Ph.D. in Anthropology. FEE: \$100 available anytime

Tureen, Thomas N.

Tureen and Margolin
176 Middle Street
Portland, ME 04101
207/773-7166

Case: Passamaquoddy Tribe vs. Morton. Had involvement with all tribes in New England in some way and served as legal counsel for most. Currently staff attorney for NARF. FEE: \$82.50/hour

ETHNOHISTORIANS

Bean, Lowell John
Oakland, CA

See Anthropologist listing.

Beckham, Stephen Dow
Professor of History
Lewis and Clark College
Portland, OR 97219
503/244-6161

Has Ph.D. in History and Anthropology. Completed federal petition for Chinook Tribe. Working with Oregon State terminated tribe and worked with Siletz Tribe. May have availability problem. FEE: \$300/day. Would, on occasion, serve as an unpaid consultant.

Bieder, Robert E.
1605 Dorchester Drive
Bloomington, IN 47401
812/334-2262

Dissertation: The American Indian and the Development of Anthropological Thought in the United States, 1790-1890. Also background in Indian history. FEE: \$160 plus expenses

Buesing, Gregory P.
3 Holbrook Road
Wayland, MA 01778

Familiar with workshops and NIEB/AIT effort. Served as consultant to ANA. Did research on Maine land claims, Maliseet, Abenaki, Nipmucks and Gay Head Wampanoag, NCAI Nashville conf. Time constraint - studies.

Dysart, Jane E.
History Department
University of West Florida
Pensacola, FL 32504
904/476-9500 x2684

History US 19th century, American Frontier and Southeastern Indians (especially Creek). FEE: \$50/day plus expenses

Elling, C. Michael

See Anthropologist listing.

Fritz, Henry Eugene
St. Olaf College
110 Winona
Northfield, MN
Home: 607 N. Richwoods Blvd.
Peoria, IL

Ph.D. in Humanitarian Background of American Indian Reform, 1860-1890.

Green, Michael D.
Native American Studies
Bartlett Hall
Dartmouth College
Hanover, NJ 03755
603/646-2076 or 3530

Research specialties on Southeast (Creek) and Upper Mississippi Valley (Fox). FEE: \$125

Grumet, Robert Steven
Academic Fellow
Center for the History of
the American Indian
The Newberry Library
60 W. Walton Street
Chicago, IL 60610
312/943-9090

Algonkian ethnohistorian and historic archeologist. Has done documentary research of middle Atlantic and S. N. England Coastal Algonkians for 15 years.

Hammond, Peter B.
Department of Anthropology
University of California
Los Angeles, CA 90024

Did some research on several Southeastern tribes. Did article on Coharie and Haliwa.

Hauptman, Lawrence M.
Associate Professor of History
State University of New York
College at New Paltz
New Paltz, NY 12561
914/256-8464 or 257-2517

Hoover, Herbert T.
Department of History
University of South Dakota
Vermillion, SD 57069
(605) 624-3635

Specialties: American frontier history, histories of federally recognized and nonrecognized tribes, oral history.
FEE: negotiable

Martin, J. Paul
Coordinator, Center for
Study of Human Rights
Earl Hall
Columbia University in the
City of New York
New York, NY 10027
212/280-3576

Discipline: African history, philosophy, Human Rights specialization. May not be available until March '83. Suggests telephone consultations.

Meredith, J. H.
P.O. Box 18693
Oklahoma City, OK 73154
405/524-2685 or 427-5461

Social and intellectual history, ethnohistory. Currently doing work in administration and research.
FEE: Expenses. Prefers the San Francisco area for research work.

Merrell, James H.
Institute of Early American
History and Culture
College of William and Mary
Box 220
Williamsburg, VA 23187

Past research work on Catawba Indian of Carolina, Piscataway, Cherokee and Indian history in pre-federal era.
FEE: \$150/day plus expenses

McFadden, Michael J.
2722 East 30th Street
Erie, PA 16510
814/889-8104

BA in History, May 1981 from The Behrend College of the Pennsylvania State University.
FEE: negotiable

Polzer, Charles W., SJ
Arizona State Museum
The University of Arizona
Tucson, AZ 85721
602/626-1743

Has Ph.D. in History and Anthropology. Experience mainly in Southwest and Western Mexico.
FEE: \$100

Porter, Frank W. III
American Indian Research and
Resource Institute
Gettysburg College
Gettysburg, PA 17325

Has been involved in recognition process since inception. Research interest is in Middle Atlantic region. Worked with Nanticoke and Piscataway.

Rafert, Stewart H.
Department of History
University of Delaware
Newark, DE 19711
302/737-0771

Teaches American Indian history. Ph.D. "The Miami Indians of Indiana: The Hidden Community, 1846-1940." Prefers work in Washington, D.C. area.
FEE: Tentative - \$100

Raymond, Art
Director, Indian Program
Development
University of North Dakota
Grand Forks, ND 58202
701/777-4166

Experience in Sioux history, religion and culture.
FEE: Expenses only.

Schaaf, Gregory L.
Department of History
University of California
Santa Barbara, CA 93106
805/968-2254

Specializes in Eastern Woodlands, California and Southwest Indian cultures. Currently historian for Coastal Band of the Chumash Nation.
FEE: Reasonable

GENEALOGISTS

Maskell, Ken
Abenaki Research Project
P.O. Box 276
Swanton, VT 05488

Abenaki Indian genealogist for tribe
in Vermont.

Walker, Pamela S.
1960 N. Canyon #5
Provo, UT 84604
801/372-7274

Has traced 1,358 names of the Cowlitz
tribe. Currently studying family
history at Brigham Young University.
FEE: \$1,000 for 1,000 member tribe
(negotiable based on tribal size).
Requires \$200 advance.

Wall, Elizabeth W.
844 N. Marion Street
Oak Park, IL 60302
312/383-7910

Has a "talent for genealogy" and has
worked as an amateur helping
individuals trace their roots for as
many as six generations.

OTHER PROFESSIONALS AND CONTACTS

Bowman, Greg
Mennonite Central Committee
916 St. Andrew
New Orleans, LA 70130
504/525-2561

Major in Politics and Society at
Goshen College. Attended NILB 1979
workshop. As MCC volunteer served
as researcher for genealogical
documentation of United Houman Nation.
FEE: \$15

CULTURAL FUTURES RESEARCH
Department of Anthropology
Box 15200
Northern Arizona University
Flagstaff, AZ 86011

Demarest, Dr. L. E.
Assistant Professor
Concordia College
800 North Columbia
Seward, NE 68434
402/643-3651 x552

Nursing and social work.
FEE: \$100 day plus expenses

Greenbaum, Susan
8614 Palm Lane
Tampa, FL 33617

Presently working with unrecognized
group of Choctaw in Alabama.

Jarrell, Anna Mae
Route 2, Box 376
Cornelius, OR 97113
503/628-1418

BA in Sociology and certificate in
social work. Genealogy and history
are hobbies. Site preference - Western
US and during winter months.
FEE: Travel expenses only

Kaliss, Tony
Social and Economic Research
and Planning
31 Montague Place
Montclair, NJ 07042
201/783-5571

BA, US History (Labor); MA, Economics.
Has done extensive library work,
Housing and construction at Department
of Indian Affairs in Maine; Catholic
Dioceses Division of Indian Services -
Maine (social and economic problems).
FEE: \$100. Would work lower dependin
on financial resources of tribe. Will
to talk with groups at no charge.

Lenz, Msgr., Paul A.
Executive Director
Bureau of Catholic Indian
Missions
2021 H. Street NW
Washington, DC 20006
202/331-8542

Will help find counsel through Indian
Action group in Montana.

May, Philip A.
Department of Sociology
University of New Mexico
Albuquerque, NM 87108
505/277-3945 or 2501

Sociologist. Served as: Director,
Health Statistics and Research at
Navajo Health Authority in Window Rock;
Area Health Education Center at same
site; Sociology instructor at Black
Hills State College; Staff Sociologist
PHS Hospital at Pine Ridge.
FEE: \$250 plus expenses

O'Brien, Sharon
Assistant Professor,
Department of Government and
International Studies
University of Notre Dame
Notre Dame, IN 46556
219/239-7222

Ph.D. Political Science; MA International
Science. Has teaching interest of
federal Indian law. Numerous papers, a
film and consultant work to National
Indian organizations on vita. Currently
working with Yerington Paiute Tribe of
Nevada.

Parsons, Thomas S.
Director, Center for
Community Development
Humboldt State University
Arcata, CA 95521
707/826-3711

Background in Educational Psychology and
Sociology and is teacher of five
American Indian languages.

Peterson, Robert A.
VP for Development
Gustavus Adolphus College
St. Peter, MN 56082
507/931-8000

Would be unable to give direct
involvement but is willing to help
in proposal preparation and ID of
financial resources.

Prucha, Francis Paul, SJ
Marquette University
Department of History
Charles L. Coughlin Hall
Milwaukee, WI 53233
414/224-7217 or 7385

Currently working on research and
writing of two-volume comprehensive
history of US government relations with
American Indians. 1981 had NEH research
fellowship and was at Jesuit Community
at Georgetown U., Washington, DC.

Revey, James
Longbear Indian Craft Co.
300 Main Street #3F
Orange, NJ 07050
201/675-0694

Has information on Eastern Woodland
Indians and those that formerly lived
in the East.
Would volunteer.

Schierbeck, Helen M.
Project Advisor
Indian Information Project
3902 Executive Avenue
#-12 Tyler Building
Alexandria, VA 22305
703/549-3302

Program of advocacy, information
sharing and outreach office for
American Indians east of the
Mississippi. Newsletter, REDLINER.

Schwarz, O. Douglas
377 North Broadway #611
Yonkers, NY 10701
914/963-5935

Comparative Religion specialist in
Plains Indian theology. Expressed
concern that his background would be
helpful to NILB project. Future
availability depends on location and
job status. Would volunteer.

Wiener, Diane
72 Gardner Street, #L2
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BA Boston University. Writing thesis
on socio-economic conditions of
Micmac Indians. Uses as references:
Robin Wright, Anthropologist
Harold Prins, Assoc. of Aroostock
Site preference - Chicago
FEE: negotiable

Wieder, H. W.
Vice President,
Development
Susquehanna University
Selinsgrove, PA 17870

1981 involved in fundraising efforts.
May be available later.

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Background in History/Education
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education.
FEE: \$75-\$300/day negotiable, plus
expenses

BIBLIOGRAPHY

By
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BIBLIOGRAPHY

In recent years there has been a significant increase in the volume of literature about tribes who have not been officially recognized by the Federal Government. Paradoxically, some of this was written by anthropologists working in the Bureau of American Ethnology. Many of the publications are not widely known by students, professional scholars, or tribal historians. Most of the older literature has become antiquated, obsolete, and out of print.

There is a wide range of quality in this published material. During the nineteenth century, little attention was paid to the possibility that small enclaves of Indians remained in the eastern United States. "As a sizeable native minority," William Harland Gilber (1946: 438) observed, "they deserve more attention than the meager investigations which sociologists and anthropologists have hitherto made of their problem." Beginning in the 1930s and continuing to the present, a number of social scientists directed their research to several population groups of presumed triracial descent. Various terms were used: mulattoes, mestizos, mixed-bloods, and triracial isolates, the consensus was that they were a people of intermingled Indian, Caucasian and Negro ancestry. Although the myth of the vanishing Indian in the eastern United States had been laid to rest, this particular focus of research certainly created new problems. For the most part, the White population remained confused about the origin and status of these isolated communities.

More recent studies have addressed these critical and sensitive issues. B. Eugene Griessman (1972: 694) has noted the difficulties

confronting researchers involved in such studies.

In many ways a person who studies these peoples is like a surveyor who goes into an area where there has been a boundary dispute. Some of the principals would prefer that he stay away and "let matters be." The reason is that through the years boundaries have been formed and agreements have been reached. An investigator, even though careful and fair, can disturb or threaten these arrangements.

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